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This Indenture, made this tenth day of November, in the year one thousand eight hundred and ninety-six, between

NORTHERN PACIFIC RAILWAY COMPANY, a corporation created by and existing under the laws of the State of Wisconsin, hereinafter called the "Railway Company," party of the first part, and

THE MERCANTILE TRUST COMPANY, a corporation created by and existing under the laws of the State of New York, hereinafter called the "Trustee," party of the second part.

WHEREAS, pursuant to certain decrees made and entered by the United States Circuit Court for the Eastern District of Wisconsin in a certain cause therein pending, wherein The Farmers' Loan and Trust Company and others were complainants and the Northern Pacific Railroad Company and others were defendants, and to certain other decrees made and entered by the United States Circuit Courts for various other Districts in certain ancillary causes therein pending between the above-named parties, the railroad and telegraph lines, property and franchises of the Northern Pacific Railroad Company, a corporation organized under an Act of Congress of the United States, to construct a Railroad and Telegraph Line from a point on Lake Superior in the State of Wisconsin, or the State of Minnesota, to Puget's Sound on the Pacific Coast by the northern route, including the branch from a point on said lines across the Cascade Mountains to Puget's Sound, and also certain lands granted by the Congress of the United States to aid in the construction and equipment of the main line and branch of said Company, and, also, the rights of said company under such grants made by Congress, and also certain shares of stock and bonds of other companies, and certain other properties—were sold to the

Acquisition
by Railway
Company of
property formerly of
Northern Pacific R.R. Co

Railway Company, party of the first part hereto, by Alfred L. Cary, the Special Master appointed by said Courts to make such sale.

AND WHEREAS, in said causes pending in said several courts such further proceedings were had that the sales of said properties were duly confirmed and said railroad and telegraph lines, franchises, lands and rights to lands, stocks, bonds and other properties were conveyed and assigned to the Railway Company, party of the first part hereto, in pursuance of the said decrees and of the orders of said Courts made thereon ;

—such acquisition was pursuant to an arrangement involving the creation of this mortgage.

AND WHEREAS, prior to such sales and conveyances, and for the purpose of enabling the Railway Company, party of the first part hereto, to make payment for said railroad and telegraph lines, franchises, lands, land grants, rights to land, stocks, bonds and other properties, and of procuring the execution and delivery of the bonds hereby secured, as hereinafter provided, and for other purposes, the firm of J. P. Morgan & Co., of the City of New York, acting as Reorganization Managers under a certain Plan and Agreement dated March 16, 1896, for the Reorganization of the Northern Pacific Railroad Company, sold, transferred and delivered to the Railway Company, party of the first part hereto, General First Mortgage Bonds, General Second Mortgage Bonds, General Third Mortgage Bonds and Consolidated Mortgage Bonds of said Northern Pacific Railroad Company, together with certain other securities and property, upon the express promise and agreement of the Railway Company, among other things, to execute and deliver this mortgage or deed of trust covering, as hereinafter set forth, the railroad and telegraph lines, property, franchises, lands, rights to lands, stocks and bonds acquired at said sales, and certain other properties now owned or hereafter to be acquired by the Railway Company, and to make, execute, deliver and use, as hereinafter provided, its bonds secured by this indenture ;

AND WHEREAS, the railroad, rolling stock, telegraph lines, Undisturbed
lands and land grants so acquired by the Railway Company, or mortgages of
certain parts thereof, are subject to the following prior N. P. R. Co.
mortgages, viz. :

A certain mortgage dated May 1st, 1879, executed by said Northern Pacific Railroad Company to The Farmers' Loan and Trust Company, as Trustee, covering the part of its main line of railroad known as its Missouri Division, extending from the west bank of the Missouri River, in the State of North Dakota, to the east bank of the Yellowstone River, in the State of Montana, and all the lands granted by Congress pertaining thereto, and certain other property, to secure an issue of \$2,500,000 of its Forty-Year Six Per Cent. Sinking Fund Bonds, under which mortgage bonds to the aggregate amount of \$1,776,000 of principal are now outstanding, exclusive of any bonds called in for redemption for the Sinking Fund, but not actually redeemed.

A certain mortgage dated January 1st, 1881, executed by said Northern Pacific Railroad Company to the Central Trust Company of New York, as Trustee (hereinafter called its "General First Mortgage"), covering, as in said mortgage described, its lines of railroad and telegraph, and certain lands granted to it by Congress and rights under such grants, and all rolling stock and other property acquired for use in connection with its said railroad, and all its franchises, made to secure an issue of its Railroad and Land Grant General First Mortgage Sinking Fund Six Per Cent. Gold Bonds (hereinafter called "General First Mortgage bonds") to be issued at the rate of \$25,000 per mile of its main line of railroad and Cascade branch, under which mortgage bonds to the aggregate amount of \$16,142,000 of principal are now outstanding besides and in addition to (1) \$24,590,000 of said bonds received by the Railway Company as aforesaid from said firm of J. P. Morgan & Co., acting as such Reorganization Managers, and by the Railway Company delivered to and pledged

with the Trustee hereunder, and (2) bonds now held in, or called in for redemption for, the Sinking Fund in said mortgage provided.

Acquisition
of St. Paul
and N. P.
Railway sub-
ject to mort-
gages there-
on.

AND WHEREAS, the railway and property of the St. Paul and Northern Pacific Railway Company has been conveyed or forthwith will be conveyed to the Railway Company, subject (1) to a certain mortgage dated May 1st, 1877, executed by the Western Railroad Company of Minnesota to Charlemagne Tower and J. Fraley Smith, as Trustees, to secure an issue of \$500,000 of its bonds, under which mortgage there are now outstanding bonds to the aggregate amount of \$420,000 and (2) to a certain other mortgage dated June 1st, 1883, executed by said St. Paul and Northern Pacific Railway Company to Central Trust Company of New York, as Trustee, to secure an issue of \$10,000,000 of its bonds, under which mortgage there are now outstanding bonds to the aggregate amount of \$8,003,000.

Resolution
of directors
authorizing
Prior Lien
mortgage.

AND WHEREAS, at a meeting of the Board of Directors of the Railway Company, held at its office in the City of New York on the 26th day of October, in the year eighteen hundred and ninety-six, the draft of a mortgage or deed of trust in the form of this indenture was submitted and read, and a resolution in the following words was duly and unanimously adopted, viz. :

Resolved, That the Chairman of the Board, or the President, and the Secretary, or any Assistant Secretary, of the Northern Pacific Railway Company be, and they are hereby, authorized and directed, when approved by the stockholders, to execute, acknowledge and deliver, in behalf of this company and under its corporate seal, to The Mercantile Trust Company, a corporation of the State of New York, as Trustee, a mortgage or deed of trust, substantially in the form of the draft thereof now submitted to this Board, of the property and franchises of this corporation, to be known as its "Prior Lien Mortgage," to secure an issue of bonds to be called "Prior Lien Railway and Land Grant Gold Bonds," the aggregate amount of which bonds at any

time outstanding shall not exceed \$130,000,000 ; the principal of such bonds to be payable in gold coin of the United States of America, of the present standard of weight and fineness, at the office or agency of this Company in the City of New York, on the first day of January, 1997, with interest thereon from the first day of January, 1897, at the rate of four per cent. per annum, payable in like gold coin, quarterly, at the said office or agency on the first days of January, April, July and October in each year ; both the principal and interest of said bonds to be payable without deduction for any tax or taxes imposed by the United States, or any State or Municipality thereof, which this Company may be required to pay or to retain therefrom under any present or future law ; such bonds to be coupon bonds, with provision for registration as to principal, and registered bonds without coupons, and to be issued and disposed of, on the terms and conditions, and for the purposes and in the manner set forth in said form of mortgage.

AND WHEREAS, the bonds, to be secured by this indenture shall be coupon bonds of the denomination of \$500, numbered consecutively from D1 upwards, and of the denomination of \$1,000, numbered consecutively from M1 upwards, and registered bonds of the denomination of \$100 and such multiples of \$100 as the Railway Company may prescribe by resolution of the Board of Directors, every such bond to bear a distinctive number or designation (and the registered bonds of \$500 and \$1,000 respectively to be numbered consecutively from D1 and M1 upwards, regardless of the numbering of registered bonds of other denominations), and all bonds, from time to time, as directed by the Board of Directors of the Railway Company, shall be executed in the name and on behalf of the Railway Company and under its corporate seal by the President, or any Vice-President, and the Secretary, or any Assistant Secretary, of the Railway Company, and shall be substantially of the following tenor, to wit :

Form of
coupon
bonds.

[FORM OF COUPON PRIOR LIEN RAILWAY AND LAND GRANT GOLD
BONDS FOR \$500 AND \$1,000.]

No.

\$

UNITED STATES OF AMERICA.

NORTHERN PACIFIC RAILWAY COMPANY.

PRIOR LIEN RAILWAY AND LAND GRANT GOLD BOND.

KNOW ALL MEN BY THESE PRESENTS, That NORTHERN PACIFIC RAILWAY COMPANY, a corporation, hereinafter called the "Railway Company," for value received, promises to pay to the bearer, or, if registered, to the registered holder of this bond, Dollars, gold coin of the United States of America of the present standard of weight and fineness, on the first day of January, in the year 1997, at the office or agency of the Railway Company in the City of New York, N. Y., and to pay interest thereon, at the rate of four per cent. per annum from January 1, 1897, payable quarterly at said office or agency, in like gold coin, on the first days of January, April, July and October in each year, but only upon presentation and surrender, as they severally mature, of the coupons therefor annexed and to be annexed hereto. Upon presentation of this bond on or after January 1st, 1947, the Railway Company will attach thereto sheets of coupons representing the interest installments to become due after that date, proper endorsement thereof being made on this bond.

Both the principal and interest of this bond are payable without deduction for any tax or taxes of the United States or any State or Municipality thereof, which the Railway Company may be required to pay, or to retain therefrom, under any present or future law.

This bond is one of a series of coupon and registered bonds of the Railway Company, known as "Prior Lien Railway and Land Grant Gold Bonds," duly authorized and approved by

the Board of Directors and Stockholders of the Railway Company, and issued and to be issued, to an amount not exceeding in the aggregate \$130,000,000 at any one time outstanding ; all of which bonds are issued under and in pursuance of, and are equally secured by, a mortgage or deed of trust dated November 10th, 1896, executed by the Railway Company to The Mercantile Trust Company, a corporation of the State of New York, as Trustee, of all the property and franchises of the Railway Company mentioned in said mortgage or deed of trust, to which reference is hereby made for a description of the property and franchises mortgaged and the nature and extent of the security, and the rights of the holders of said bonds, under the same, and the terms and conditions upon which said bonds are issued and secured.

This bond may be registered as to principal in the owner's name on the books of the Railway Company at its office or agency in the City of New York, such registry being noted on the bond by the Company's transfer agent, after which no transfer shall be valid, unless made on the Company's books by the registered owner and similarly noted on the bond ; but the same may be discharged from registry by being transferred to bearer, after which transferability by delivery shall be restored ; but it may again from time to time be registered or transferred to bearer as before ; such registration, however, shall not affect the negotiability of the coupons by delivery merely. This bond is also exchangeable for registered bonds without coupons, as provided in said mortgage or deed of trust.

This bond shall not become obligatory for any purpose until it shall have been authenticated by the certificate, hereon endorsed, of the Trustee under said mortgage or deed of trust.

IN WITNESS WHEREOF, the Northern Pacific Railway Company has caused these presents to be signed by its President or one of its Vice-Presidents, and its corporate seal to be hereunto affixed, and to be attested by its Secretary or an Assistant Secretary, and coupons for said interest maturing up to January 1st,

1947, with the engraved signature of its Treasurer, to be attached hereunto this tenth day of November, 1896.

NORTHERN PACIFIC RAILWAY COMPANY,
By

President.

Attest:

Secretary.

Form of
registered
bonds.

[FORM OF REGISTERED PRIOR LIEN RAILWAY AND LAND GRANT
GOLD BONDS.]

UNITED STATES OF AMERICA.

NORTHERN PACIFIC RAILWAY COMPANY.

REGISTERED PRIOR LIEN RAILWAY AND LAND GRANT
GOLD BOND.

No.

\$

KNOW ALL MEN BY THESE PRESENTS, that NORTHERN PACIFIC RAILWAY COMPANY, a corporation, hereinafter called the "Railway Company," for value received, promises to pay

or assigns, the sum of

dollars, gold coin of the United States of America of the present standard of weight and fineness, on the first day of January, in the year 1997, at the office or agency of the Railway Company in the City of New York, and to pay interest thereon from the first day of January, April, July or October, as the case may be, next preceding the date hereof, at the rate of four per cent. per annum, payable quarterly, in like gold coin, at said office or agency, on the first days of January, April, July and October in each year.

Both the principal and interest of this bond are payable without deduction for any tax or taxes of the United States or any State or Municipality thereof, which the Railway Company may be required to pay, or to retain therefrom under any present or future law.

This bond is one of a series of coupon bonds and registered bonds of the Railway Company, known as "Prior Lien Railway and Land Grant Gold Bonds," duly authorized and approved by the Board of Directors and Stockholders of the Railway Company, issued and to be issued, to an amount not exceeding in the aggregate \$130,000,000 at any one time outstanding; all of which Bonds are issued under and in pursuance of, and are equally secured by, a mortgage or deed of trust, dated November 10th, 1896, executed by the Railway Company to The Mercantile Trust Company, a corporation of the State of New York, as Trustee, of all the property and franchises of the Railway Company mentioned in said mortgage or deed of trust, to which reference is hereby made for a description of the property and franchises mortgaged, and the nature and extent of the security, and the rights of the holders of said bonds, under the same, and the terms and conditions upon which said bonds are issued and secured.

This bond is transferable by the registered holder thereof, in person or by attorney duly authorized, on the books of the Railway Company at its office or agency in the City of New York, upon surrender and cancellation of this bond, and a new registered bond will be issued to the transferee in exchange therefor, as provided in said mortgage or deed of trust, and on payment, if the Railway Company shall so require, of the charge therein provided for.

This bond shall not become obligatory for any purpose until it shall have been authenticated by the certificate, hereon endorsed, of the Trustee under said mortgage or deed of trust.

IN WITNESS WHEREOF, the Northern Pacific Railway Com-

pany has caused these presents to be signed by its President, or one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary or Assistant Secretary this day of

NORTHERN PACIFIC RAILWAY COMPANY,
By

President.

Attest :

Secretary.

AND WHEREAS, there shall be annexed to the said coupon bonds, at the time of the issue thereof, the coupons representing the quarterly interest installments which may become due thereon to and including the first day of January, 1947, and similar coupons shall be subsequently annexed representing the quarterly interest installments of later maturity, each of which coupons shall be substantially of the following tenor :

Form of
coupons.

[FORM OF INTEREST COUPON, OF WHICH THE FIRST IS TO BE
PAYABLE APRIL 1, 1897.]

No.

\$

On the first day of , , Northern Pacific Railway Company will pay to bearer at its office or agency in the City of New York, N. Y., dollars gold coin, without deduction for taxes, being three months' interest then due on its Prior Lien Railway and Land Grant Gold Bond No. .

Treasurer.

AND, WHEREAS, the coupons to be attached to said bonds shall be authenticated by the engraved signature of the present Treasurer, or of any future Treasurer, of the Railway Company, it being intended that the Railway Company may adopt and use for that purpose the engraved signature of any person who shall have been such Treasurer, notwithstanding the fact that he may have ceased to be such Treasurer at the time when such bonds shall be actually certified and delivered, or when such coupons shall be attached to the bonds ;

AND, WHEREAS, There shall be endorsed on each of such bonds a certificate of the Trustee that it is one of the Prior Lien Railway and Land Grant Gold Bonds herein described, and no bond shall be valid or obligatory for any purpose until such certificate shall have been executed by the Trustee, such certificate to be substantially of the following tenor, viz. :

[FORM OF TRUSTEE'S CERTIFICATE.]

Form of
Trustee's
Certificate.

This bond is one of the series of Prior Lien Railway and Land Grant Gold Bonds described in the within-mentioned Mortgage or Deed of Trust executed by the Northern Pacific Railway Company to the undersigned.

THE MERCANTILE TRUST COMPANY,
Trustee.

By

AND WHEREAS, at a meeting of the stockholders of the Rail-Resolutions
way Company, held at Madison, in the State of Wisconsin, on of stock-
the seventh day of November, 1896, at which the holders holders
of all the shares of its capital stock were present or represented approving
by proxy, it was duly and unanimously resolved that the ex- this Mort-
ecution and delivery of a mortgage or deed of trust upon the gage.
property and franchises of the Railway Company under and

in accordance with the above recited resolution of the board of directors of the Railway Company adopted on the twenty-sixth day of October, 1896, be approved and authorized and that such mortgage or deed of trust be in the form of this indenture ;

Granting
clause.

Now, therefore, this indenture witnesseth :

That in order to secure the payment of the principal and interest of all such bonds at any time issued and outstanding under this indenture, according to their tenor and effect, and the performance of all the covenants and conditions herein contained, and to declare the terms and conditions upon which such bonds are issued and received, the RAILWAY COMPANY, party of the first part, in consideration of the premises and of the purchase and acceptance of such bonds by the holders thereof, and of the sum of one dollar to it duly paid by the Trustee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, has executed and delivered these presents, and has granted, bargained, sold, aliened, remised, released conveyed, confirmed, assigned, transferred and set over, and by these presents does grant, bargain, sell, alien, remise, release, convey, confirm, assign, transfer and set over, unto, THE TRUSTEE, party of the second part, its successors and assigns forever :

Properties
mortgaged :

ALL AND SINGULAR the following railroads, estates, lands, properties, rights, privileges and franchises, and bonds and shares of capital stock, viz. :

—railway in
Wisconsin.

ALL AND SINGULAR the line of railroad commencing at a point on the bay of Superior, in northeast quarter, section 30, township 49, range 13, in the State of Wisconsin, and extending thence to a point of junction with the line of railway next hereinafter described, at the boundary line between the States of Wisconsin and Minnesota.

ALL AND SINGULAR the railroad and telegraph line or lines—Northern
 formerly of the Northern Pacific Railroad Company, and now Pacific Rail-
 of the Railway Company, being all the line or lines beginning road.
 at or near Ashland, in the State of Wisconsin, and running
 thence in or through the States of Minnesota, North Dakota,
 Montana, Idaho, Washington and Oregon, with termini at
 Wallula and Tacoma, in the State of Washington, and Port-
 land, in the State of Oregon.

ALSO ALL THE RIGHT, TITLE, ESTATE, INTEREST AND PROPERTY—land grant
 of the Railway Company (subject to the sales thereof and con- mortgaged.
 tracts of sale in respect thereof heretofore made by the Railway
 Company or by the Northern Pacific Railroad Company, or
 by any Receiver thereof) in and to any and all the lands
 granted by the Congress of the United States to aid in
 the construction and equipment of said railroad, being
 25,600 acres of land per mile of said railroad through
 Territories of the United States, and 12,800 acres per
 mile through States, at the date of such grant, being
 the States of Wisconsin, Minnesota and Oregon, and the
 United States Territories (now States) of North Da-
 kota, Montana, Idaho and Washington, with the here-
 ditaments and appurtenances thereto belonging or in
 any wise appertaining, together with the grants of said
 lands and all rights under such grants, and all the estate,
 right, title, interest, claim and demand whatsoever which the
 Railway Company now has or may hereafter acquire or become
 entitled to, of, in and to any of the lands aforesaid, and
 also of, in and to all the indemnity lands, wherever the
 same may be situated, that have been or may be acquired
 by said company to supply deficiencies in the quantities of
 said granted or mortgaged lands in pursuance of, and in
 accordance with the terms and provisions of said grants ;

ALSO ALL THE RIGHT, TITLE, ESTATE, INTEREST AND PROPERTY—contracts
 of the Railway Company in and to contracts of sale in respect for sale of
 included. lands

of any lands so granted by the Congress of the United States, whether such sales have been made by the Railway Company or by the Northern Pacific Railroad Company or by any Receiver thereof.

—interest in part of St. Paul and Duluth railroad. ALSO ALL THE ESTATE, RIGHT, TITLE, INTEREST AND PROPERTY of the Railway Company in and to the undivided one-half of all that part of the St. Paul and Duluth Railroad which extends, or at one time extended, from its junction with the said main line of railroad of the Railway Company, near Thompson, in the County of Carlton, to Duluth, in the State of Minnesota, with the appurtenances thereto belonging, and all the rights, privileges, easements, property and rights of property thereto belonging or used or intended to be used in connection therewith or for the purposes thereof; and also all and singular the lands, premises and real estate situated and being in the City of St. Paul and in the said City of Duluth, in the State of Minnesota.

—Washington Short Line. ALSO ALL THE RIGHT, TITLE, ESTATE, INTEREST AND PROPERTY of the Railway Company, whether now held or hereafter acquired, in and to the property, railroad and franchises of the Washington Short Line Railroad Company, and in and to any stock or bonds of said Company.

—St. Paul and Northern Pacific Railway. ALSO ALL THE ESTATE, RIGHT, TITLE, INTEREST AND PROPERTY every name and nature of the Railway Company, whether now held or hereafter acquired, in and to the property, railroad and franchises now or recently of the St. Paul and Northern Pacific Railway Company, including all and singular the railroad of the said St. Paul and Northern Pacific Railway Company constructed from the Town of Brainerd, by way of Sauk Rapids, and Minneapolis to St. Paul, all in the State of Minnesota, together with a certain branch or cut-off extending from Little Falls to Staples, in said State; and also

the estate, right, title and interest of said St. Paul and Northern Pacific Railway Company in and to all lands including those granted by the Congress of the United States to aid in the construction of a railroad from Watab to Brainerd as aforesaid.

ALSO ALL THE RIGHT, TITLE, ESTATE, INTEREST AND PROPERTY —new acquisitions under mortgage.
of the Railway Company in and to any and all lines of railway, extensions and branches, terminal properties, rolling stock, or other property, including the franchises appurtenant thereto, and any and all bonds, stocks and other property of every kind or description (notwithstanding that the same are not now particularly set forth in this indenture), which, from time to time, in the manner provided in Section 4 of Article One or in Section 3 of Article Eight hereof, shall be designated in the verified certificates to be furnished by the Railway Company to the Trustee whenever the Railway Company shall call for any of the bonds secured by this indenture, or for the moneys comprised in the CASH FUND herein provided for, reserved under the provisions of this indenture for construction, equipment, improvements or purchases of or additions to property.

INCLUDING any and all roadbed, superstructure, rights of way, —all appurtenances mortgaged.
rails, tracks, sidetracks, bridges, viaducts, buildings, depots, stations, warehouses, car-houses, engine-houses, freight-houses, coal-houses, wood-houses, machine shops and other shops, turntables, water-stations, fences, docks, structures, erections and fixtures, and all other things of whatever kind in any wise or at any time belonging or appertaining to any line of railway, or to any branch or operated line, at any time subject to the lien of this indenture, or provided for use thereon, or in connection therewith ; and any and all lands designed for depots, warehouses or other structures at any terminus, or on and along such lines of railway, or upon or along any such branch or operated line ; and any and all locomotives, —all equipment mortgaged.
engines, cars and other rolling stock, equipment, machinery,

instruments, tools, implements, materials, furniture and other chattels, wheresoever situated, now or hereafter held, acquired or provided for use upon such lines of railway or branches, or upon any other line or branch, or upon any operated line; and any and all leaseholds, leases, rights under lease or contract, covenants and agreements, terms or parts of terms; and any and all other property, real or personal, of every kind and description, now or hereafter acquired for use upon, or in connection with, or for the purpose of, such lines of railway, branches or operated lines at any time subject to the lien hereof; and any and all corporate or other rights, privileges and franchises which the Railway Company now has, or hereafter shall acquire, possess or exercise for, or appertaining to, the construction, maintenance, use or operation of such lines of railway or branches or operated lines, or any part thereof; and any and all the rents, issues, profits, tolls and other income of such lines of railway, or branches or operated lines, or any part thereof, and of any and all the rights, privileges, franchises, properties, real or personal, rights and things which the Railway Company may or shall hereafter possess, or become entitled to possess, for the purpose of, or in connection with, such lines of railway or any such branch or operated line.

--contracts and leases mortgaged.

--franchises mortgaged.

--income mortgaged.

--all property acquired under decrees in pending suits.

INCLUDING all franchises, lines of railway, extensions, branches, telegraph lines, real estate, rolling stock and other railway property (but not including the bonds, stocks, choses in action, cash and other personal property, except as herein specifically mentioned) which have been conveyed or sold to the Railway Company pursuant to said decrees, or which hereafter may be sold to, or acquired by, or for the benefit of, the Railway Company, party of the first part hereto, or which it is entitled, or may become entitled, to receive by virtue of said deeds of conveyance executed by said Special Master, or otherwise, in pursuance of any decrees in the said consolidated cause

pending in the Circuit Court of the United States for the Eastern District of Wisconsin, wherein the said Farmers' Loan and Trust Company and others are complainants and said Northern Pacific Railroad Company and others are defendants, or in said ancillary causes.

TOGETHER with all the right, title, estate, interest and property which the Railway Company now has, or at any time hereafter may acquire, in or to any of the franchises, lines of railway, extensions, branches, telegraph lines, stocks, bonds and other property, real, personal or mixed, hereby mortgaged, conveyed and assigned, or intended so to be.

Provided, however, that nothing in this indenture contained shall be construed to limit the right or power of the Railway Company, hereby expressly reserved, by the use of its credit or in any manner except by the use of the bonds reserved under Section 4 of Article One of this indenture, or of the CASH FUND established under Section 3 of Article Eight of this indenture for Improvement Purposes, to construct or acquire other lines of railway, branches, or extensions, or interests therein, free from the lien of this indenture. —reservation of right to acquire new lines free from lien.

ALSO the following BONDS, to be delivered to the Trustee as hereinafter provided : —bonds pledged.

Northern Pacific Railroad Company Railroad and Land Grant General First Mortgage Sinking Fund Six Per Cent. Gold Bonds.....	\$24,590,000
Little Falls & Dakota Railroad Company.....	1,577,429
Northern Pacific, Fergus and Black Hills Railroad Company.....	2,102,701
Duluth, Cookston & Northern Railroad Company.....	889,000
Fargo & Southwestern Railroad Company.....	1,569,398
Northern Pacific, La Moure & Missouri River Railroad Company.....	318,000
Sanborn, Cooperstown & Turtle Mountain Railroad Company.....	665,750
Jamestown & Northern Railroad Company.....	1,843,916

Jamestown & Northern Extension Railroad Company	270,000
Southeastern Dakota Railroad Company	133,000
Northern Pacific & Manitoba Railway Company	5,260,000
Rocky Mountain Railroad Company of Montana	942,941
Northern Pacific & Montana Railroad Company	8,675,000
Northern Pacific & Manitoba Railway Company Terminal bonds	750,000
Helena & Jefferson County Railroad Company	366,599
Spokane Falls & Idaho Railroad Company	270,000
Spokane & Palouse Railway Company (Idaho Di- vision)	1,218,000
Green River & Northern Railroad Company	375,000
Northern Pacific & Cascade Railroad Company	388,000
Northern Pacific & Puget Sound Shore Railroad Company	1,383,000
United Railroads of Washington	5,298,000
Clealum Railroad Company	68,000
Duluth & Manitoba Railroad Company Dakota and Minnesota Division bonds	2,900,000
Helena & Red Mountain Railroad Company	309,000
James River Valley Railroad Company	962,000
Spokane & Palouse Railway Company (Washington Division)	1,733,000

—stocks
pledged.

Also the following shares of stock to be delivered to the
Trustee as hereinafter provided :

Duluth, Crookston & Northern Railroad Com- pany	\$5,000,000	00
Northern Pacific, La Moure & Missouri River Railroad Company	318,000	00
Jamestown & Northern Extension Railroad Com- pany	1,600,000	00
Southeastern Dakota Railroad Company	133,500	00
Northern Pacific & Manitoba Railway Company ..	1,000,000	00
Spokane Falls & Idaho Railroad Company	500,000	00
Northern Pacific & Cascade Railroad Company ..	225,000	00
Northern Pacific & Puget Sound Shore Railroad Company	275,000	00
Tacoma, Orting & Southeastern Railroad Com- pany	172,000	00
Clealum Railroad Company	300,000	00
Rocky Fork & Cooke City Railway Company ...	2,000,000	00
Green River & Northern Railroad Company	424,000	00
Duluth & Manitoba Railroad Company	2,000,000	00
Helena & Red Mountain Railroad Company	204,000	00
Little Falls & Dakota Railroad Company	1,460,207	50
Helena & Jefferson County Railroad Company ..	402,000	00

United Railroads of Washington	4,961,000 00
Fargo & Southwestern Railroad Company	4,000,000 00
Jamestown & Northern Railroad Company	3,200,000 00
Northern Pacific, Fergus and Black Hills Rail- road Company	15,000,000 00
James River Valley Railroad Company	1,000,000 00
Northern Pacific & Montana Railroad Company ..	5,306,100 00
Rocky Mountain Railroad Company of Montana ..	1,000,000 00
Sanborn, Cooperstown & Turtle Mountain Rail- road Company	300,000 00
Spokane & Palouse Railway Company	1,000,000 00
Duluth Union Depot & Transfer Company	150,000 00
Minnesota Transfer Railway Company	7,000 00
St. Paul Union Depot Company	50,000 00
Winnipeg Transfer Railway Company, Limited ..	50,000 00
Northern Pacific Coal Company	100,000 00
Northern Pacific Express Company	343,000 00

ALSO, all stocks, bonds, certificates of indebtedness, claims and other property of every name and nature, now owned or hereafter acquired by the Railway Company which, by any of the provisions of this indenture, it is required to pledge, assign or transfer to the Trustee.

ALSO, all property of every name and nature, from time to —additional time hereafter, by delivery or by writing of any kind, for the ^{properties} purposes hereof, pledged, assigned or transferred by the Rail- ^{may be} way Company or by any one in its behalf to the Trustee, which ^{mortgaged} or ^{pledged.} is hereby authorized to receive any property, at any and all times, as and for additional security, and also, when and as hereinafter provided, as substituted security, for the payment of bonds issued or to be issued hereunder, and to hold and apply any and all such property subject to the terms hereof.

To have and to hold, the premises, railroads, proper- ties, real or personal, rights, franchises, estates, appurtenances, stock and bonds hereby conveyed and assigned, or intended to be conveyed or assigned, unto the Trustee, its successor or successors and assigns forever :

—subject to
certain prior
mortgages
on portions
thereof.

Subject, as to certain portions of the property hereby mortgaged and conveyed, to the hereinbefore recited mortgages of said Northern Pacific Railroad Company, said Western Railroad Company of Minnesota and said St. Paul and Northern Pacific Railway Company so far as such mortgages respectively cover such property.

—in trust for
bondholders.

But in trust, nevertheless, for the equal and proportionate benefit and security of all present and future holders of the bonds and interest obligations issued and to be issued under and secured by this indenture, and for the enforcement of the payment of said bonds and interest obligations, when payable, and the performance of, and compliance with, the covenants and conditions of this indenture; without preference, priority or distinction as to lien or otherwise of any one bond over any other bond by reason of priority in the issue or negotiation thereof, so that each and every bond, issued and to be issued as aforesaid, shall have the same right, lien and privilege under and by this indenture, and that the principal and interest of every such bond shall, subject to the terms hereof, be equally and proportionately secured hereby, as if all had been made, executed, delivered and negotiated simultaneously with the execution and delivery of this indenture; it being intended that the lien and security of this indenture shall take effect from the day of the date hereof without regard to the date of actual issue, sale or disposition of said bonds as though, upon such day, all of said bonds were actually issued, sold and delivered to, and in the hands of, innocent holders for value.

AND IT IS HEREBY EXPRESSLY COVENANTED that all such bonds and the coupons for interest thereon are to be issued, certified, and delivered, and that the mortgaged premises are to be held by the Trustee subject to the further covenants, conditions, uses and trusts hereinafter set forth; and it is covenanted between the parties hereto as follows, viz. :

ARTICLE ONE.

Certification
of bonds :

SECTION 1. All bonds to be secured hereby shall, from time to time, be executed and delivered by the Railway Company to the Trustee for certification, and thereupon the Trustee shall certify and deliver the same as provided in this Article, and not otherwise. The aggregate amount of the bonds issued and outstanding under this indenture at any one time shall never exceed the principal sum of \$130,000,000.

—total au-
thorized
issue
\$130,000,000.

Only such bonds as shall bear thereon endorsed the Trustee's certificate by it duly executed shall be secured by this indenture or shall be entitled to any lien or benefit hereunder ; and every such certificate of the Trustee upon any bond executed in behalf of the Railway Company shall be conclusive evidence that the bond so certified has been duly issued hereunder and is entitled to the benefit of the trust hereby created. On request of the Railway Company, such certificates shall be made and bonds shall be delivered hereunder in advance of registration or record of this indenture ; but the Railway Company shall cause record of this indenture as a mortgage upon real estate to be made with all convenient speed.

The bonds and certificates for the shares specifically enumerated in the granting clauses hereof as transferred to the Trustee hereunder, shall, prior to the certification of any bonds hereunder, be assigned and delivered to, and pledged with, the Trustee under this indenture ; excepting, however, \$100,000 Terminal bonds of the Northern Pacific and Manitoba Railway Company ; \$2,900,000 bonds of the Duluth and Manitoba Railroad Company ; \$1,733,000 bonds of the Spokane and Palouse Railroad Company (Washington Division) ; \$1,000,000 Spokane and Palouse Railway Company stock ; \$100,000 Northern Pacific Express Company stock ; \$150,000 Duluth Union Depot and Transfer Company stock ; \$7,000 Minnesota Transfer Railway Company stock ; \$50,000 St. Paul Union Depot Company stock and \$100,000 Northern Pacific Coal Company stock, which shall respectively be delivered and pledged with the Trustee

—bonds and
stock cer-
tificates to
be pledged
before certi-
fication of
bonds.

when and as released from the respective pledges or agreements under which they are now severally held.

—overdue
coupons to
be canceled.

Before certifying or delivering any coupon bond hereby secured, the Trustee shall cut off and cancel all coupons thereof then matured; and the Trustee shall not certify or deliver any registered bond bearing interest from any date more than three months prior to such certification or delivery.

\$73,816,500
to be delivered to reorganization managers.

SEC. 2. Of the bonds authorized to be issued under and secured by this indenture, bonds to the amount of Seventy-three million eight hundred and sixteen thousand five hundred dollars (\$73,816,500), immediately upon the execution or delivery hereof, or as soon as may be thereafter, shall by the Trustee be certified and delivered to the firm of J. P. Morgan & Co., or their survivors or successors, as such Reorganization Managers, without accountability by said firm, or such survivors, or successors, for the disposition or use thereof.

\$31,183,500
reserved to take up
outstanding
old bonds.

SEC. 3. Of the remainder of such authorized issue of bonds there shall be reserved bonds to the amount of Thirty-one million one hundred and eighty-three thousand five hundred dollars (\$31,183,500), for the purpose of providing for the acquisition, by purchase or exchange, or for the redemption, as hereinafter provided, of the following bonds (hereinafter called "outstanding old bonds"), viz.:

\$1,776,000 par value of the forty-year six per cent. sinking fund bonds of the Northern Pacific Railroad Company known as its Missouri Division First Mortgage Bonds, issued and outstanding under said mortgage or deed of trust, dated May 1, 1879.

\$16,142,000 par value of the forty-year six per cent. sinking fund bonds of the Northern Pacific Railroad Company, known as its General First Mortgage Bonds, which bonds together with the \$24,590,000 of additional bonds of the same issue pledged with the Trustee hereunder, were issued and are now outstanding under

said mortgage or deed of trust of the Northern Pacific Railroad Company, dated January 1, 1881.

\$420,000 par value of the bonds of the Western Railroad Company of Minnesota issued and outstanding under said Mortgage or Deed of Trust dated May 1st, 1877, executed by said Western Railroad Company of Minnesota.

\$8,003,000 par value of the bonds of the St. Paul and Northern Pacific Railway Company issued and outstanding under said Mortgage or Trust Deed of the St. Paul & Northern Pacific Railway Company dated June 1st, 1883.

The said \$31,183,500 of bonds hereby secured and reserved for the acquisition, by purchase or exchange, or for the redemption, of the above-described outstanding old bonds shall be issued, certified and delivered, from time to time, when authorized by resolution of the Board of Directors of the Railway Company, as follows and not otherwise, viz.:

(a) Whenever through the operation of the sinking fund created by said Missouri Division mortgage, or otherwise, any of said Missouri Division bonds, with all unmatured interest obligations thereto belonging, shall, after the date of this indenture, be paid or otherwise satisfied and canceled, or acquired for said sinking fund, then for each \$1,000 of such bonds so paid or otherwise satisfied, and canceled, or so acquired for said sinking fund, the Trustee shall certify and deliver to the Railway Company or upon its order \$1,000 par value of the said bonds hereby secured for each \$1,000 of principal of such Missouri Division bonds so paid or satisfied and canceled, or so acquired.

(b) Whenever the Railway Company shall tender or cause to be tendered any of said General First Mortgage bonds of the Northern Pacific Railroad Company, together with all unmatured interest obligations thereunto belonging, and shall certify in writing to the Trustee that such bonds have not been

Conditions
of issue of
such re-
served
bonds :

—upon satis-
faction or
purchase of
Missouri
Division
bonds.

—in ex-
change for
old General
First Mort-
gage bonds.

acquired through the operation of the sinking fund established in said General First Mortgage of said Northern Pacific Railroad Company, dated January 1st, 1881, the Trustee hereunder shall receive the same, and in exchange therefor shall certify and deliver to the Railway Company, or upon its order, such amount of the bonds hereby secured as the Railway Company by its President, or one of its Vice-Presidents, shall certify that it has used to acquire such bonds tendered to the Trustee, or has agreed to give in exchange therefor, but in no instance shall the Trustee certify and deliver more than \$1,300, par value, of the said bonds hereby secured and reserved for each \$1,000 of principal of the bonds so received by the Trustee.

Whenever the amount of bonds to be certified and delivered as aforesaid in exchange for any such General First Mortgage bonds received by the Trustee shall be less than \$1,300 par value of bonds hereby secured for each \$1,000 of principal of such General First Mortgage bonds so received, the Trustee, from time to time, upon the order of the Railway Company, shall certify and deliver, and the Railway Company may sell, an amount of the bonds reserved under this Section, equal to the difference between the amount of bonds hereby secured which shall have been certified and delivered in exchange for General First Mortgage bonds actually received by the Trustee as aforesaid, and \$1,300 par value of bonds hereby secured for each \$1,000 of principal of such General First Mortgage bonds so actually received: *Provided*, That the net proceeds of the sale of such bonds, as certified by the President or one of the Vice-Presidents of the Railway Company (except a sum equal to the amount of unpaid interest accrued on the bonds so sold, which shall be paid over to the Railway Company) shall simultaneously be deposited with the Trustee; and thereupon such net proceeds received by the Trustee shall forthwith be added to the CASH FUND established under Section 3 of Article Eight hereof, and shall be treated in all respects as part thereof.

(c) Whenever, after the date of this indenture, the trustee—when old of said General First Mortgage of the Northern Pacific Rail- General First road Company shall have been provided with, or shall have bonds are in any way collected or received, any moneys for the sinking called for the fund created under said mortgage for the redemption of said sinking fund. General First Mortgage bonds (whether any such moneys be received for interest on bonds held in such sinking fund or otherwise), and said trustee, after the date of this indenture shall have called any such bonds for redemption for such sinking fund pursuant to the terms of said General First Mortgage, then, for each \$1,000 par value of said General First Mortgage bonds so called for redemption, other than bonds held by the Trustee hereunder, the Trustee hereunder shall certify \$1,300 par value, of the bonds hereby secured and reserved as aforesaid, and shall apply the same as follows, viz. :

The Trustee hereunder shall set apart \$1,300 par value of the bonds hereby secured for each \$1,100 of such moneys received by the trustee of said General First Mortgage for said sinking fund after the date of this indenture, which shall have been derived from sales of lands subject to said General First Mortgage and to this indenture, and which shall be applicable to the redemption of the principal of the General First Mortgage bonds so called for redemption, other than bonds then held by the Trustee hereunder—a ratable share of such moneys being regarded, for the purposes hereof, as applicable to the redemption of each of the bonds called for redemption whether held by the Trustee or not. The bonds so set apart under this paragraph may from time to time be sold by the Railway Company, and the Trustee shall deliver the same upon the order of the Railway Company, provided that the net proceeds of the sale of such bonds, as certified by (1) the chairman of the board of directors, or the president, or any vice-president and (2) the treasurer, or any assistant treasurer, of the Railway Company, shall simultaneously be deposited with the Trustee (except a sum equal to the amount of unpaid interest accrued on such bonds,

which shall be paid over to the Railway Company), and such proceeds, when and as so received, shall be added to the *net moneys* mentioned in Article Eight hereof and be treated in all respects as part thereof. If, however, such bonds set apart as aforesaid shall not be sold by the Railway Company within one year after the call for redemption of the General First Mortgage bonds in respect of which such bonds hereby secured were certified and set apart, then out of one-half of the bonds so set apart and unsold (so far as such one-half shall suffice), an amount at par equal to the difference between \$500,000 and the amount applied during the preceding calendar year, out of the combined fund under Section 2 of Article Eight hereof, to the purchase of bonds hereby secured, shall be canceled by the Trustee, and the remainder of such one-half of such bonds, together with the other one-half of such bonds so set apart and unsold, may be sold from time to time thereafter by the Railway Company, and the Trustee shall deliver the same upon its order, provided that the net proceeds of such sale, as certified by two such officers of the Railway Company, shall simultaneously be deposited with the Trustee, and such proceeds when and as so received shall be added to the CASH FUND under Section 3 of Article Eight hereof, and treated in all respects as part thereof.

All of the said bonds hereby secured—other than those to be set apart, as aforesaid—which may be certified under this subdivision “(c)” for said outstanding General First Mortgage bonds for the redemption of which the trustee of said General First Mortgage shall have received moneys as aforesaid, after the date of this indenture, shall in each instance, and under all circumstances, when and as certified as hereinbefore provided, be forthwith delivered by the Trustee to the Railway Company or upon its order.

All moneys at the date of this indenture held by the trustee of said General First Mortgage in the sinking fund therein provided, but not necessary to redeem bonds already called for

redemption and outstanding, and also all moneys which hereafter shall be collected or received by the trustee of said mortgage from land contracts, notes, bonds or mortgages executed on account of the sale of any such lands, whether executed prior or subsequent to the date of this indenture, so far as such moneys are not necessary to redeem bonds already called for redemption, shall, for the purposes of this section, and also for the purposes of Section 4 of Article Eight hereof, be deemed to be moneys collected and received from the sale of lands after the date of this indenture.

(d) Whenever the Railway Company shall tender or cause to be tendered any such outstanding old bonds of the Western Railroad Company of Minnesota, or of the St. Paul and Northern Pacific Railway Company, with all unmatured interest obligations thereunto belonging, the Trustee shall receive the same, and in exchange therefor shall certify and deliver to the Railway Company, or upon its order, a like amount at par of the said bonds hereby secured and reserved. —in exchange for Western R. Co. of Minn., and St. Paul & N. P. R. Co. bonds.

(e) Whenever any of said bonds of the St. Paul and Northern Pacific Railway Company shall be acquired for the sinking fund created under said mortgage dated June 1st, 1883, securing such bonds, the Trustee hereunder shall in like manner certify and deliver a like amount at par of the bonds hereby secured and reserved. —when St. Paul & N. P. Ry. Co. bonds are acquired for sinking fund.

(f) Whenever the Railway Company, on or after the maturity of any such outstanding old bonds of the Western Railroad Company of Minnesota or of the St. Paul and Northern Pacific Railway Company, or on or after a date eight months prior to the maturity of such outstanding old bonds, shall tender or cause to be tendered, cash sufficient to purchase or to pay the same, or any part thereof, at par (and shall also provide to the satisfaction of the Trustee for any interest due upon such bonds or accruing before their maturity), the Trustee shall receive such cash, and in consideration thereof shall —sale of reserved bonds to pay Western R. R. Co. of M. and St. Paul & N. P. Ry. Co. bonds.

certify and deliver to the Railway Company or upon its order an equivalent amount at par of the said bonds hereby secured and reserved.

All cash received by the Trustee under this subdivision of this Section shall by it be held and applied to the payment at par of an equivalent amount of the outstanding old bonds of the Western Railroad of Minnesota and of the St. Paul and Northern Pacific Railway Company then unpaid, for the purchase or payment of which such cash shall have been deposited.

Old bonds
when re-
ceived to be
stamped and
kept alive.

Every outstanding old bond of the Northern Pacific Railroad Company, the Western Railroad Company of Minnesota and of the St. Paul and Northern Pacific Railway Company, received by the Trustee under this Section, shall by it be stamped with the words "Not negotiable, but "held in trust for the purposes declared in the Prior "Lien Mortgage of the Northern Pacific Railway Company, "dated November 10th, 1896," and shall be held by the Trustee as purchaser, without extinguishment or impairment of lien, as additional security for the payment of the bonds hereby secured until called for payment under any provision of the mortgage securing such bond, and, if not so called, then until all bonds of the issue of which such outstanding old bond is one shall have been paid, or provided for by deposit of the moneys required for the payment thereof, or shall have been received hereunder by the Trustee, whereupon in its discretion it may cancel and surrender to the Railway Company all old bonds of such issue then in its possession.

Certificates
upon which
the Trustee
may act.

Certificates signed by the President, Treasurer, or Comptroller of the Railway Company, showing (a) the amounts of Missouri Division Bonds, or bonds of the St. Paul and Northern Pacific Railway Company, at any time or times subsequent to the date hereof paid, or otherwise satisfied and canceled, or acquired for the sinking fund under the mortgages securing such bonds, (b) the amounts of moneys which, at any time subsequent to the date hereof, the trustee of the General First Mortgage of the Northern Pacific Rail-

road Company in any manner shall have collected or received, or shall have been provided with, for the redemption of General First Mortgage bonds; (*c*) the portion of such moneys which was derived from sales of lands; (*d*) that such amount of bonds or of moneys, as the case may be, are in addition to all amounts shown by certificates theretofore furnished for the purposes hereof; (*e*) the distinctive numbers of any of said bonds called for redemption for the sinking funds under the respective mortgages securing such bonds, and (*f*) any other facts necessary for any determination by the Trustee for any purpose of this Section,—may be received by the Trustee as conclusive evidence of any of such facts therein set forth for the purposes of this Section, but the Trustee, in its discretion, may make such further inquiries and require such further evidence as to it may seem reasonable; and for the purposes of this Section moneys derived from land sales and received by the trustee under said General First Mortgage of the Northern Pacific Railroad Company, and also all other moneys received by said trustee shall, respectively, be deemed applicable ratably to the redemption of all bonds called for redemption out of such moneys, whether such called bonds be held hereunder by the Trustee or not.

The Railway Company shall provide and maintain books wherein it shall register as the property of the Trustee any outstanding old bonds received by the Trustee; and except as herein expressly provided no such outstanding old bond shall be canceled, unless the holder thereof, at time of maturity, shall require cancellation as a condition of surrender.

SEC. 4. The remainder of the authorized issue hereunder, \$25,000,000 amounting to \$25,000,000 of said bonds, (except such portion of such remainder as shall be called for and certified and delivered prior to January 1st, 1898, as provided in paragraph (*c*) of this Section), shall be reserved, to be executed, and to be certified by the Trustee, not immediately, but only when and as called for by resolution of the Board of Directors as next

\$25,000,000 reserved for new acquisitions and betterments.

hereinafter provided, for the following purposes, or some one or more of them, viz.:

For the construction or acquisition, on and after January 1st, 1898, of branch lines, extensions, terminal properties, rolling stock or other additional property; or for the construction of betterments, subsequent to said date; all such construction, or betterments, or property acquired, to be upon, along, or appurtenant to, lines of railway, branches or terminal properties of the Railway Company, at the time of such use subject to the lien of this indenture, or upon, along or appurtenant to the lines of railway or the terminal properties of some one or more of the companies mentioned in the schedule of stocks in the granting clauses hereof (other than the Duluth Union Depot and Transfer Company, Minnesota Transfer Railway Company, St. Paul Union Depot Company, Northern Pacific Coal Company and Northern Pacific Express Company) or of any other company of whose capital stock, at least a majority in amount shall have been pledged hereunder, it being intended that such branch lines, extensions or terminal properties or other new property may be constructed or acquired by and in the name of the Railway Company, or by or for account of any such other company; or for the acquisition after that date of shares, bonds or other obligations of a company owning any such branch line, extension, terminal property, rolling stock or other additional property (provided that a majority in amount of the total stock of such company shall thereby be obtained or previously shall have been obtained and pledged hereunder, and provided further that, after the acquisition of a majority of the capital stock of any such company, no bonds, shares or other obligations of such company thereafter issued shall be acquired hereunder unless a sum equal to the entire proceeds of the bonds used therefor shall have been applied by such company to the acquisition or construction of new property or betterments); or to reimburse the Railway Company

for outlays by it made for any such construction or acquisition on or subsequent to January 1st, 1898.

The bonds reserved under this Section, shall be certified by the Trustee and delivered to the Railway Company, or upon its order, as follows, and not otherwise, viz. :

Conditions of
certification
of such
bonds :

(1) Such bonds shall be certified and delivered only upon delivery to the Trustee of a copy of a resolution of the board of directors of the Railway Company, certified by its Secretary or Assistant Secretary, calling for the certification and delivery of such bonds, and stating that such bonds or their proceeds will be set aside separate and apart from all other assets and funds of the Railway Company, and will be used only for the purposes authorized by this Section.

—only upon
resolution of
directors of
Railway Co.

(2) On January 1, 1898, or on any day thereafter, prior to December 31, 1898, bonds to such amount as shall be called for in such resolution, but not exceeding in the aggregate \$1,500,000, par value, shall be so certified and delivered.

—\$1,500,000
in the year
1898.

(3) In each calendar year after December 31, 1898, there shall be so certified and delivered such additional amount of such bonds, not exceeding \$1,500,000 par value in any calendar year, as, from time to time, shall be called for in similar resolutions; but in every instance, before certifying and delivering any of the bonds reserved under this Section (except the \$1,500,000 deliverable in the year 1898), the Trustee shall require the Railway Company to furnish, in addition to such resolution of the Board, the verified certificate or certificates of some person or persons, stating as of his or their own knowledge :

—not over
\$1,500,000 in
any year
thereafter.

—verified
certificates
required.

(a) that all bonds certified and delivered under this Section since the last previous verified certificate, and the proceeds of all such bonds, have been used for such purposes, or for some one or more of them, or to reimburse the Railway Company as above provided, specifically indicating every such acquisition or construction

of any railroad, track, structure, betterment, rolling stock or other property, and every such acquisition of bonds or stock of any company owning any railroad or other property (which bonds or stock shall be acquired only when a majority of the total capital stock of such company shall be thereby obtained unless previously thereto such majority shall have been acquired and pledged hereunder) and also stating in detail the amount of bonds, or proceeds of bonds, used or expended for each and every such purpose, and whether such acquisition was by or in the name of the Railway Company or by or for account of any other company as herein authorized; and also that no acquisition, construction or expenditure stated in such certificate was stated in any previous certificate;

(b) that the price paid in such Prior Lien Gold bonds, or their proceeds, for such construction, or acquisition, was not in excess of the fair value of the work done or property acquired, and that the bonds included in such verified certificate were sold, disposed of, or otherwise accounted for, at not less than their fair market value at the time of such sale, disposition or accounting;

(c) that no sum has been paid over by the Trustee to the Railway Company out of the CASH FUND under Section 3 of Article Eight hereof, or from any other source under this indenture, on account of, or to reimburse the Railway Company for, any expenditure in such certificate mentioned as having been made out of Prior Lien Gold Bonds or their proceeds, or for which reimbursement is claimed out of such bonds or their proceeds.

(d) In case of the acquisition hereunder of any new property, every such verified certificate also shall state whether the property so acquired is known, or believed, to be subject to any lien or charge prior to

this indenture, other than (1) the mortgages securing outstanding old bonds hereinbefore mentioned, (2) mortgage bonds, or other liens, or charges, held by the Trustee, or in respect of which, as hereinafter provided, bonds shall have been reserved hereunder, and (3) any undetermined liens or charges incidental to construction; and such verified certificate shall specify the amount of any such prior lien or charge (other than as aforesaid) known or believed to exist; and in case of the acquisition of any shares of the capital stock, bonds or other indebtedness of any other Company by the use of such bonds or their proceeds, every such verified certificate shall state whether the property of such other company is known or believed to be subject to any lien or charge, and whether such company is known or believed to have any indebtedness, except ordinary operating accounts and except also indebtedness to the Railway Company, and liens, charges and indebtedness held by the Trustee hereunder, or in respect of which bonds shall have been reserved hereunder, such verified certificate in each instance specifying the amount of any such debt, lien or charge.

Any such verified certificate under this Section may state any other facts pertaining to the right to certify and deliver bonds hereunder.

(4) The Railway Company shall not by use of any such bonds reserved under this Section, or their proceeds, in any one calendar year acquire or construct new property or acquire shares in any other company, if the amount of the mortgage or other liens and charges, prior to this indenture, upon such new property acquired or constructed in that year, and any and all indebtedness of such other company or companies whose stock shall be acquired in such year, shall in the aggregate exceed \$2,000,000—restrictions where new property acquired subject to liens or shares of a company indebted.

—excepting, however, the mortgages, securing outstanding old bonds hereinbefore mentioned, and any mortgage bonds, or other liens, charges or indebtedness held by the Trustee hereunder, or in respect of which, as hereinafter provided, bonds shall have been reserved in any previous calendar year, or years, and except also any undetermined liens or charges incidental to construction, and ordinary operating accounts and indebtedness of any such other company to the Railway Company.

In case there shall be acquired or constructed by use of such bonds, or their proceeds, any property subject to any such certified lien, charge or indebtedness, or in case by such use there shall be purchased any shares in a company certified as aforesaid to be indebted (not including, however, liens, charges and indebtedness of the classes above excepted) then during the continuance of such lien, charge or indebtedness, there shall be set apart out of the bonds reserved under this Section an amount at par equivalent to such certified liens, charges or indebtedness; and the bonds so set apart shall be taken from the \$1,500,000 bonds under this Section deliverable in such calendar year, or in the next two succeeding calendar years, as may be agreed between the Railway Company and the Trustee. Thereafter the bonds so set apart shall, from time to time, be executed and certified, upon the order of the Railway Company and delivered and used for the retirement or acquisition of such certified liens, charges or indebtedness in amounts equivalent at least to the par amount of the bonds certified and delivered therefor, and all the liens, charges or indebtedness so retired or acquired shall be canceled or, if practicable, shall be assigned to and held by the Trustee in such manner as, in its judgment, shall best protect the holders of the bonds hereby secured.

In case any such liens, charges or indebtedness, for which bonds shall have been set apart as aforesaid, shall be acquired or retired by use of the CASH FUND under Section 3 of Article Eight hereof, then of the bonds so set apart an equivalent

amount shall again become applicable to, and shall be reserved for, the general purposes of this Section, as though they had never been set apart as aforesaid; and, in like manner, if after the retirement or acquisition of any liens, charges or indebtedness by use of bonds set apart therefor as aforesaid, a surplus of such bonds shall remain over and above the aggregate amount of such liens, charges and indebtedness remaining to be acquired or retired, then such surplus shall again become applicable to, and shall be reserved for, the general purposes of this section as before.

(5) Every such verified certificate unless signed (1) by the President, or one of the Vice-Presidents, and (2) by the Comptroller, or Auditor, or Treasurer, of the Railway Company, shall be accompanied by a written statement of one of the officers first-above designated and one of the officers secondly-above designated that they believe such certificate to be true, and that such bonds have been used and the expenditures therein certified have been made only for purposes properly chargeable to capital account of the Railway Company, and that no part thereof has been used for ordinary maintenance of the lines of railway or of other property owned or in any way controlled by the Railway Company or for replacements or other purposes ordinarily treated by railroad companies as a part of their operating expenses. Together with such statements and verified certificates, there shall be delivered to the Trustee all bonds and certificates for all shares of stock so acquired, and such further instruments and conveyances as may be necessary to vest in the Trustee all new property so acquired, and, so far as may be, any and all other liens, charges or indebtedness taken up or acquired with, the said bonds or their proceeds; and also the written opinion of counsel of the Railway Company to the effect that such instruments and conveyances are sufficient for that purpose, or that no additional instrument or conveyance is necessary. The certificates for all shares of stock so acquired shall be duly transferred into the name of

—certificates
to be accom-
panied by
statement.

—bonds,
shares and
conveyances
to be de-
livered to
Trustee, with
opinion of
counsel.

the Trustee, and, if practicable, any bonds so acquired shall be transferred in like manner, or, if not susceptible of such transfer, shall be plainly endorsed as the property of the Trustee hereunder. Such resolutions, statements, verified certificates and opinion shall be deemed and taken as plenary authority to the said Trustee for its certification of such bonds under the foregoing provisions of this Article.

Except to retire or acquire liens, charges or indebtedness for which bonds so used shall have been reserved, as hereinbefore provided, and except as provided in the following paragraph hereof, bonds shall not be issued or certified under this Section in excess of an aggregate amount of \$1,500,000 in any one calendar year.

\$3,000,000
may be
issued for
special pur-
poses prior
to January
1st, 1898.

(6) Of the bonds reserved under this Section an amount not exceeding in the aggregate \$3,000,000 may be certified, delivered and used when and as called for, as hereinafter provided, from time to time prior to January 1st, 1898, for (1) the creation of an insurance fund and for (2) the creation of a reserve fund for any special improvements upon the railways, terminals and lands subject to this indenture; and for (3) any other necessary purposes of the Railway Company which two-thirds of all the members of the Board of Directors of the Railway Company shall approve. The Trustee shall certify and deliver such bonds to the Railway Company or upon its order from time to time, but only when and as called for by resolution of the Board of Directors of the Railway Company approved by two-thirds of all the members of the Board, specifying the particular purposes for which the bonds called for by such resolution are to be used; and the Railway Company shall set aside such bonds separate and apart from its other assets and funds, and shall use such bonds or their proceeds only for the purposes specified in such resolution or any of them; and the Railway Company, from time to time, upon the written request of the Trustee, shall furnish to the Trustee a certificate or certificates signed by the

Chairman of the Board of Directors, or the President, and by the Treasurer or Comptroller of the Railway Company, specifying the purposes for which the bonds certified and delivered under this paragraph of this Section have been used. Such resolutions shall be full authority to the Trustee for certification and delivery by it of bonds under this paragraph.

SEC. 5. Whenever any coupon bond or bonds amounting to \$500 or to any multiple of \$500, together with all unmatured coupons thereto belonging, shall be surrendered for exchange for registered bonds, the Railway Company shall issue, and the Trustee shall certify and deliver in exchange for such coupon bond or bonds, a like amount of registered bonds, without coupons. Such registered bonds shall be for \$100, or for such multiples thereof as the Railway Company may prescribe by resolution of the Board of Directors, and shall bear interest at the same rate as the surrendered coupon bonds, and from the date of the last matured coupon thereof. In every case of such exchange the Trustee forthwith shall cancel the surrendered bond or bonds and coupons, and shall deliver the same to the Railway Company.

Whenever any such registered bond shall be surrendered for transfer, the Railway Company shall issue, and the Trustee shall certify and deliver, to the transferee, upon surrender and cancellation of the bond or bonds transferred, a like amount of new registered bonds for \$100 or for such multiples of \$100 as the Railway Company may prescribe ; but no registered bond may be converted into a coupon bond.

For any exchange of coupon bonds for registered bonds, and for any transfer of registered bonds without coupons the Railway Company, at its option, may make a charge not exceeding fifty cents for each new registered bond issued in exchange for any surrendered bond or bonds ; but no charge shall be made for registration of the principal of coupon bonds.

In case any coupon bond issued hereunder with the coupons thereto appertaining, or any registered bond without coupons,

Issue of
registered
bonds.

Issues in lieu
of bonds mu-
tilated or de-
stroyed.

shall become mutilated or be destroyed, the Railway Company, in its discretion, may issue, and the Trustee thereupon shall certify and deliver, a new bond of like tenor and date, bearing the same serial number, in exchange and substitution for, and upon cancellation of, the mutilated coupon bond and its coupons, or the registered bond, or in lieu of, and substitution for the coupon bond and its coupons, or the registered bond, so destroyed, upon receipt of satisfactory evidence of the destruction of such coupon bond and its coupons, or of such registered bond, and upon receipt also of satisfactory indemnity.

No rights
conferred ex-
cept upon
Trustee and
bondholders.

SEC. 6. Nothing in this Article, or in any other Article, of this indenture expressed or implied, is intended, or shall be construed, to confer upon any person or corporation, other than the parties hereto and the holders of bonds issued under and secured by this indenture, any legal or equitable right, remedy or claim under or in respect of this indenture, or any covenant, condition or stipulation thereof; all its covenants, conditions and stipulations being intended to be, and being for the sole and exclusive benefit of the parties hereto and of the holders of bonds hereby secured.

ARTICLE TWO.

Covenants of
Railway Co.

THE RAILWAY COMPANY COVENANTS AS FOLLOWS:

—to pay prin-
cipal and
interest of
bonds.

SECTION 1. It will well, duly and punctually pay, or cause to be paid, to every holder of any bond issued and secured hereunder, the principal and interest accruing thereon, at the dates and place and in the manner mentioned in such bonds, and in the coupons thereto belonging, according to the true intent and meaning thereof, without deduction from either principal or interest for any tax or taxes imposed by the United States, or any State or Municipality thereof, which the Railway Company may be required to pay or retain therefrom

under or by reason of any present or future law. When and as paid, all coupons shall forthwith be canceled.

Upon presentation of any such coupon bond at its office ^{—to attach further sheets of coupons.} or agency in the City of New York, on or after January 1, 1947, the Railway Company, will cause to be attached to such bond, without expense to its holder, sheets of coupons representing the interest installments to become due on such bonds after that date, proper endorsement being made on the respective bonds that such new coupon sheets have been attached.

SEC. 2. All lines of railway and property of every kind, and ^{—extending} all interest therein, when and as and to the extent hereafter ac- ^{lien to new property ac-}quired, as above provided, out of bonds, or the proceeds of ^{quired under mortgage.} bonds, secured by this indenture, or out of the CASH FUND under Section 3 of Article Eight hereof, or out of other funds received pursuant to any provision hereof, immediately upon, and subject to the terms and conditions of, such acquisition, and, without any further conveyance or assignment, shall become and be subject to the lien of this indenture as fully and completely as though now owned by the Railway Company, and expressly and specifically conveyed by, and embraced in, the granting clauses of this indenture; but at any and all times the Railway Company will execute and deliver any and all such further assurances or conveyances thereof as the Trustee may reasonably direct or require, for the purpose of expressly and specifically subjecting the same to the lien of this indenture.

SEC. 3. Whenever demanded by the Trustee, the Railway ^{—to execute further as-}Company, will grant, convey, confirm, assign, transfer and set ^{surances.} over unto the Trustee, all real and personal estate, corporate rights and franchises which, in any way or manner, it shall acquire as appurtenant to, or for use upon, any railroad or leasehold estate hereby mortgaged (including all railroads

and leasehold estates which shall hereafter become subject to the lien of this mortgage), or any railroad of which any stocks or bonds are or shall be pledged hereunder; and it will also do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered all and every such further acts, deeds, conveyances and transfers, and assurances in the law, for the better assuring, conveying and confirming unto the Trustee all and singular the hereditaments and premises, estates, and property hereby conveyed, or intended so to be, or which the Railway Company has herein covenanted and agreed hereafter to convey to the Trustee, as the Trustee shall reasonably require for better accomplishing the provisions and purposes of this indenture, and for securing payment of the principal and interest of the bonds intended to be hereby secured; and whenever demanded by the Trustee, the Railway Company will endeavor to procure from all companies, of which the capital stock or bonds or any part of either is, or shall be, pledged hereunder, all conveyances or assurances in law necessary to bring under the lien of this indenture any and all property connected with or appurtenant to the property of any such company, constructed or acquired by use of any bonds set apart under Section 4 of Article One, or of the CASH FUND under Section 3 of Article Eight, of this indenture, or of any other funds received pursuant to any provision hereof.

But nothing expressed or implied in this indenture is intended, or shall be construed, to limit the right or power of the Railway Company, hereby expressly reserved, by the use of its credit or in any manner, except by the use of such reserved bonds or such CASH FUND, or other funds received pursuant to any provision hereof, to construct or acquire other lines of railway, branches or extensions, or interests therein, free from the lien hereof.

—respecting
registration
of bonds.

SEC. 4. The Railway Company will, at an office or agency

to be maintained by it in the City of New York, keep a sufficient register or registers of bonds issued hereunder, which registers at all reasonable times shall be open to the inspection of the Trustee; and, upon presentation for such purpose, it will, under such reasonable regulations as it may prescribe, register therein any coupon bonds and any bonds without coupons issued under the provisions hereof. As to all bonds so registered, the person in whose name the same shall be registered shall for all purposes of this indenture be deemed and regarded as the owner thereof, and thereafter payment of or on account of the principal of such bond, if it be a coupon bond, and of the principal and interest, if it be a registered bond without coupons, shall be made only to such registered holder or upon his order; but such registration may be changed as hereinafter provided. All such payments so made shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid.

Upon presentation of any coupon bond which shall have been registered as aforesaid, with a written power to transfer the same, executed by the registered holder, such bond shall be transferred upon such register, and thereafter the transferee or transferees of such bond upon such register shall be held to be the owner or owners thereof, and from time to time such transfers may be made as so directed by the registered holder of any such bond for the time being. The registered holder of any such coupon bond shall also have the right to cause the same to be registered as payable to bearer, in which case transferability by delivery shall be restored, and thereafter the principal thereof shall be payable to any person presenting the same. Any holder of a coupon bond registered to bearer may cause such bond to be registered in the name of such holder with the same effect as a first registration thereof; and successive registrations and transfers to bearer as aforesaid may be made from time to time as desired. Such registration of any coupon bond shall not restrain the negotiability of any

coupon thereto belonging but every such coupon shall continue to pass by delivery merely.

Any registered bond without coupons may be transferred by instrument in writing executed by the registered holder upon surrender of the bond and payment of the charge for such transfer, in which case a like amount of new registered bonds will be issued to the transferee as provided in Section 5 of Article One hereof.

—to pay principal and interest of bonds under old mortgages.

SEC. 5. The Railway Company will well and truly pay and discharge, or will acquire and pledge hereunder, on or before their respective dates of maturity all of said outstanding bonds of the Northern Pacific Railroad Company secured by its Missouri Division mortgage, dated May 1st, 1879, and its General First Mortgage, dated January 1st, 1881, and all said outstanding bonds of the Western Railroad Company of Minnesota secured by its mortgage dated May 1st, 1877, and all said outstanding bonds of the St. Paul and Northern Pacific Railway Company secured by its mortgage, dated June 1st, 1883; it will not issue or permit or suffer to be issued any bonds under any of said mortgages in addition to said bonds now outstanding thereunder (except registered bonds issued in exchange for coupon bonds surrendered); it will not extend, or permit or suffer any extension of, the time of payment of any of said bonds at, before, or after, maturity thereof; and it will duly, punctually and regularly pay or cause to be paid the interest on all such outstanding bonds until the same shall be paid and discharged, or acquired and pledged hereunder.

—not to create prior liens and to pay claims given priority by law.

SEC. 6. The Railway Company will not voluntarily create or suffer to be created any lien or charge which would be prior to the lien of these presents, upon the mortgaged premises, or any part thereof, or upon the income thereof; and, within six months after the same shall accrue, it will pay all lawful claims and demands of mechanics, laborers and others, which, if unpaid, might by law, be given precedence to this in-

indenture as a lien or charge upon the mortgaged premises or any part thereof, or the income thereof; and if any company (excepting Northern Pacific Coal Company or any company successor thereto) of whose capital stock the greater part is now pledged hereunder, or, pursuant to this indenture, shall hereafter be pledged hereunder, shall create or suffer to be created any lien or charge upon its property or income, or create or suffer to be created any indebtedness, other than (1) indebtedness to the Railway Company, or (2) for the current operating expenses of such company during a period not exceeding six months, then it, the Railway Company, will pay and discharge the same.

SEC. 7. The Railway Company from time to time will pay ^{—to pay} and discharge all taxes, assessments and governmental charges ^{taxes and assessments.} lawfully imposed upon the lines of railroad and other premises hereby mortgaged, or upon any part thereof, or upon the income and profits thereof, the lien of which would be prior to the lien hereof, so that the priority of this indenture shall be fully preserved in respect of such properties; and if any company (excepting Northern Pacific Coal Company or any company successor thereto) of whose capital stock the greater part is now pledged hereunder, or pursuant to this indenture, shall hereafter be acquired and pledged hereunder, shall, at any time during the continuance of any such pledge, fail to pay all such taxes, assessments and charges lawfully imposed upon the property of such company or upon the income and profits thereof, then it, the Railway Company, will itself pay and discharge the same, but the Railway Company shall not be required by the provisions of this Section to pay any such tax, assessment or charge, so long as the Railway Company shall in good faith contest the validity thereof.

The foregoing covenant in respect of the payment and discharge of taxes, assessments and governmental charges upon the mortgaged premises shall not apply in respect of any

lands for which patents shall not have been actually issued, until such patents shall have been issued, nor in respect of any lands, whether now or hereafter patented, which, from time to time, shall be indicated by writing addressed to the Trustee and signed and verified by the President and the Land Commissioner of the Railway Company as not being of sufficient value and likelihood of ultimate sale to make it advantageous to the Railway Company to pay taxes, assessments or other charges thereon; and any lands so indicated may be abandoned by the Company with the written consent of the Trustee, or may be sold, subject to unpaid taxes, if any, for such nominal consideration as may be agreed upon with the approval of the Trustee.

—relating to
companies
whose stocks
pledged.

SEC. 8. Except subject to the lien hereof or as herein otherwise expressly provided, the Railway Company (1) will not sell, encumber or by any voluntary act part with its ownership of and title to any shares of stock of any Company which shall have been pledged hereunder (if a majority of the shares of such Company shall have been so pledged), or its equity of redemption therein or the voting power thereof, and (2) will, subject to the lien hereof, hold all and singular such stock of every company of whose capital stock the greater part shall have been pledged hereunder, and will exercise its voting power thereon in such manner that it shall retain in itself the rights and powers of the holder of the greater part of the capital stock of such company; and (3) will at all times take all such action as, from time to time, may be necessary to preserve the corporate existence and corporate rights of every company of whose capital stock the greater part shall be pledged hereunder.

As such holder of such stock it will not by affirmative vote, or by abstaining from voting, sanction or permit any increase of the capital stock of any such company,

or the creation of any indebtedness of any such company (except current operating accounts for a period not at any date exceeding six months prior thereto), or the issue or guaranty of any bonds by any such company, or the creation of any mortgage or other lien upon the railroad or property of any such company, unless effective provision be made that such indebtedness and the evidences thereof, and such bonds issued or guaranteed, and such mortgage or other lien, and all such additional stock (or such part of such additional stock as is proportionate to the part of such entire capital stock previously pledged hereunder), shall, immediately upon the issue or creation thereof, be delivered to and pledged with the Trustee, by it to be held subject to all the trusts of this indenture, with the same effect as if such indebtedness, bonds, mortgage or other lien and shares, as the case may be, had been delivered and pledged to it hereunder at the time of the making hereof; and all such additional stock shall be fully paid and non-assessable.

Except as herein otherwise expressly provided, the Railway Company will not by affirmative vote, or by abstaining from voting, sanction or permit any company of whose capital stock the greater part shall be pledged hereunder to sell or otherwise to dispose of its railroad, or to lease the same (unless such lease be terminable hereunder by entry of the Trustee, or by sale, by the Trustee, or pursuant to judicial proceedings), except to the Railway Company or to some other company of whose capital stock there shall then be held by the Railway Company and be pledged or assigned to the Trustee hereunder a percentage, not less than the percentage held hereunder of the capital stock of the Company whose railroad shall be so sold or otherwise disposed of or leased.

SEC. 9. Any and all claims and indebtedness (other than—to assign bonds now or hereafter pledged or assigned to the Trustee ^{claims} against com-

panies whose stocks pledged. under any other provision of this indenture) which the Railway Company now holds or hereafter may acquire against any other company, of whose capital stock the greater part shall have been pledged or assigned to the Trustee hereunder, shall be and become subject to the lien of this indenture, and if and when requested in writing by the Trustee the Railway Company will execute to the Trustee appropriate assignments thereof.

—not to issue or use bonds except as authorized. SEC. 10. The Railway Company will not issue, negotiate, sell or dispose of any bonds hereby secured, in any manner other than in accordance with the provisions of this indenture, and the agreements in that behalf herein contained, and in issuing, selling, negotiating or otherwise disposing of such bonds, from time to time, it will well and truly apply, or cause to be applied, the same, or the proceeds thereof, to and for purposes herein prescribed, and to and for no other or different purpose.

Provisions relating to pledged bonds and stocks.

ARTICLE THREE.

Railway Company to receive interest and dividends, etc., unless in default.

SEC. 1. Unless (a) the Railway Company shall be in default in the payment of some interest on any bond secured by this indenture, or on any bond (other than bonds held by the Trustee hereunder) secured by any of the aforesaid mortgages of the Northern Pacific Railroad Company dated May 1st, 1879, and January 1st, 1881, or by the mortgage of the Western Railroad of Minnesota dated May 1st, 1877, or by the mortgage of the St. Paul and Northern Pacific Railroad Company, dated June 1st, 1883, and such default shall have continued for a period of six months; or unless (b) the Railway Company shall be in default in the due and punctual payment of the principal of any bond secured hereby, or of any bond (other than bonds held by the Trustee hereunder) secured by any of the aforesaid mortgages mentioned in this Section; or unless (c) the Railway Com-

pany shall be in default in the payment of any tax, assessment or other governmental charge lawfully imposed or levied upon any part of the property and premises hereby mortgaged, or the income and profits thereof, and such default shall have continued for a period of six months after written notice thereof from the Trustee or from holders of five per cent. in amount of the bonds secured hereby ; or unless (*d*) the Railway Company shall be in default in the due performance and observance of any covenant or condition of this indenture and such default shall have continued beyond the period of grace, if any, herein provided for in respect of such default, and the Trustee shall have entered or shall have elected to enter into possession under the power of entry hereinafter conferred ; or unless (*e*) the Railway Company voluntarily shall have surrendered to the Trustee possession of the mortgaged premises as hereinafter authorized—the Trustee (except with the assent of the Railway Company), shall not collect or be entitled to collect the principal or interest of any bonds or other claims or indebtedness now or hereafter pledged with, or assigned to, the Trustee under this indenture ; and the Railway Company shall be entitled to receive all interest paid and dividends declared in respect of any bonds or stocks transferred to or pledged with the Trustee pursuant to any of the provisions of this indenture ; and from time to time (subject to the covenants in respect thereof in this section contained), upon the request of the Railway Company, the Trustee shall deliver to it the coupons for such interest, in order that the Railway Company may receive payment thereof for its own use, and shall deliver to the Railway Company suitable orders in favor of the Railway Company or its nominee for the payment of such dividends ; and the Railway Company may collect such coupons and dividends, but not by any proceeding which the Trustee shall deem to be prejudicial to the trusts hereunder ; and the Trustee at once shall pay over to the Railway Company any such interest and dividends which may be collected or received

by it. In every such case the Railway Company shall be entitled for its own use to demand, receive and collect, release and discharge, the principal or interest of any such claim against, or indebtedness (other than bonds) of, any other company pledged with the Trustee hereunder, and upon request of the Railway Company the Trustee shall execute any re-assignments or releases which may be required for that purpose.

If any such coupon, or if any evidence of any such claim or indebtedness, delivered to the Railway Company as aforesaid, shall not as aforesaid forthwith be paid and canceled, the Railway Company shall return the same to the Trustee, and in case of the payment of any such coupon, claim or indebtedness, shall upon demand of the Trustee furnish satisfactory evidence of the cancellation and extinguishment thereof.

Provided, however, and it is hereby declared and agreed that, except as herein otherwise expressly provided, (1) the Railway Company shall not be entitled to receive, and the Trustee shall not pay over to the Railway Company, any principal of any bond pledged or assigned to the Trustee hereunder; (2) the Railway Company shall not be entitled to receive, and the Trustee shall not pay over, any interest on any such bond or any principal or interest of any such other claim or indebtedness which shall have been collected or paid out of the proceeds of any sale of any property covered by a mortgage securing such bonds, or out of the proceeds of the sale of any other property of the company liable upon such bonds, claims, or indebtedness, in case of a dissolution or liquidation of such company, it being the intention that the Railway Company shall only be entitled to receive payments made out of the rents, revenues, income, or proceeds of operation, of such properties; (3) the Railway Company shall not sell, assign or transfer any such coupon, or right to dividend, delivered or assigned to it, or any other such claim or indebtedness, except subject to this indenture;

(4) that the Railway Company shall not collect any such coupons or other claims or indebtedness by legal proceedings or by enforcement of any security therefor, except with the assent of the Trustee, nor in any manner which the Trustee shall deem prejudicial to the trust hereunder; and (5) until actually paid or discharged every such coupon or right to dividends and other claims and indebtedness shall in all respects remain subject to the lien of this indenture.

Nothing in this Section contained shall affect or impair any of the provisions of Article Eight hereof.

SEC. 2. In case any sum shall be paid on account of the Principal principal of any bond pledged with the Trustee hereunder ^{of bonds collected} or shall be paid upon the dissolution or liquidation of any ^{to go into} company upon any shares of stock of such company held ^{CASH FUND.} by the Trustee hereunder or upon any such claims against or indebtedness of such company, as mentioned in Section 1 of this Article, then, in any such case (unless applied as in Section 5 of this Article provided), any such sum shall be received by the Trustee and shall (except as provided in Section 4 of Article Eight hereof) be held, used and paid over as part of the CASH FUND under Section 3 of Article Eight hereof.

SEC. 3. Unless the Railway Company shall be in default, Voting and such default shall have continued in any case as specified ^{power on pledged stocks.} under (a), (b) or (c) of Section 1 of this Article, or unless in the case (d) specified in said Section, the Trustee shall have entered, or shall have elected to enter, into possession, or unless the Railway Company shall have voluntarily surrendered possession of the mortgaged premises as hereinafter authorized, the Railway Company shall have the right to vote upon all shares of stock pledged hereunder, for all purposes not inconsistent with the provisions or purposes of this indenture and with the same force and effect as though such pledge had not

been made ; and from time to time, upon demand of the Railway Company, the Trustee forthwith shall execute and deliver to the Railway Company, or its nominees, suitable powers of attorney or proxies for such purposes.

Pledged
bonds to be
registered or
stamped.

SEC. 4. The Trustee shall be authorized to cause to be registered in its name as Trustee any and all coupon bonds pledged with it hereunder, or which at any time hereafter may be pledged with it under any of the provisions of this indenture, or to cause the same to be exchanged for registered bonds of any denomination without coupons, or to cause the same to be stamped " Not negotiable. Held by The Mercantile Trust Company, as Trustee, under the Prior Lien Mortgage of the Northern Pacific Railway Company, dated November 10th, 1896." The Trustee shall cause to be transferred into its name as Trustee hereunder all registered bonds and all shares of stock delivered and assigned to it or which at any time hereafter may be delivered and assigned to it as security hereunder.

Pledged
stocks to be
transferred
to Trustee.

Power of
Trustee to
preserve
companies
and transfer
qualifying
shares.

The Trustee may do whatever may be necessary for the purpose of maintaining or preserving the corporate existence of any and all companies, any of whose shares shall, at any time, be pledged hereunder, and for such purposes, from time to time, it may sell, assign, transfer and deliver so many shares of the stocks of the several companies as may be necessary to qualify persons to act as Directors of, or in any other official relation to, said companies ; provided, however, that under this provision no transfer shall be made which shall reduce the amount of stock in any company, held by the Trustee, so as to render it less than a controlling interest in such stock ; and in any such case the Trustee may make such arrangements as it shall deem necessary for the protection of the trust hereunder.

Foreclosure
of mortgages

SEC. 5. If any default shall be made in the payment of the principal or interest of any mortgage bonds at any time

pledged hereunder, or of other bonds secured by the same securing mortgage as such bonds held by the Trustee, then, in any such case, the Trustee, upon the written request of the Railway Company, shall cause proper proceedings to be instituted and prosecuted in some court of competent jurisdiction to foreclose the mortgage or mortgages by which such bonds are secured; but in any case where not less than eighty-five per cent. in amount of the principal of all the bonds secured by any mortgage are pledged hereunder, proceedings to foreclose such mortgage shall be taken only under such conditions as in the judgment of the Trustee will enable it either to obtain par and interest for the bonds secured by such mortgage held by it, or else to acquire the property covered by such mortgage, and to subject such property or securities representing such property to the lien hereof, as hereinafter provided. The Trustee, however, shall not be liable for any error of judgment in respect of such proceedings or their outcome.

In case the Railway Company shall be in default in the payment of the principal or interest of any of the bonds hereby secured, and such default shall have continued for a period of six months, or in case a Receiver of the mortgaged premises shall have been appointed, or in case the Trustee shall have entered, or shall have elected to enter, into possession of the mortgaged premises under the power hereinafter conferred or by the voluntary action of the Railway Company, then the Trustee, in its discretion, may institute such proceedings without such written request.

In case, at any time, any company of whose capital stock the greater part shall be held by the Trustee hereunder shall be dissolved or liquidated, or in case all or any of the property of any such company shall be sold upon the insolvency of such company at any judicial or other sale, or in case any property covered by a mortgage securing any bonds held by the Trustee hereunder shall be sold upon foreclosure of such

secured
pledged
bonds.

Purchase of
property by
use of
pledged
securities.

mortgage, then, in any such case, if the property of such company or the property sold can be acquired by crediting on the bonds, claims, indebtedness or stock held by the Trustee hereunder the amount accruing thereon out of the proceeds of such property and paying not more than fifteen per cent. of the price of such property in cash, the Trustee may, in its discretion, and in any case, if by the Railway Company requested in writing, and provided with the necessary funds therefor, the Trustee shall, purchase, or cause to be purchased, such property, either in the name and on behalf of the Railway Company or in its own name or by purchasing trustees, and shall use such bonds, claims, indebtedness and stock to make payment for such property ; and, in case of any such purchase, the Trustee shall take such proceedings as it may deem best to cause such property to be vested either in the Railway Company, subject to the lien of this indenture, or in some other corporation organized or to be organized for that purpose, of whose bonded debt and capital stock, all excepting the amount thereof required to qualify directors, shall be received and held by the Trustee and shall be vested in the Railway Company subject to the lien of this indenture.

Power of Trustee to join in reorganization in respect of pledged securities.

The Trustee may also in any case take such steps as, in its discretion, shall be calculated best to protect its interests hereunder in respect of any bonds or stock subject to the lien hereof, and for that purpose it may join in any plan of reorganization in respect of any such bonds or stocks and may accept new securities issued in exchange therefor under such plan.

Provision for cash required to protect interest of Trustee.

The Railway Company covenants that, on demand of the Trustee, it, the Railway Company, forthwith will pay or satisfactorily provide for all expenditures incurred by the Trustee under any of the provisions of this Section, including all sums required to obtain and perfect the ownership and title to any railways or other properties which the Trustee shall purchase or cause to be purchased pursuant to the provisions of this Section ; and in case the Railway Company shall fail so to do, then, without impairment of, or prejudice

to, any of its rights hereunder by reason of the default of the Railway Company, the Trustee, in its discretion, may advance all such expenses and other moneys required, or may procure such advances to be made by others, and for such advances, made by the Trustee, or by others at its request, with interest thereon, the Trustee shall have a lien on the property hereby mortgaged and pledged, which lien shall be prior to the lien of the bonds hereby secured, but in no event shall the principal of such lien exceed, in the aggregate, at any one time, a sum equal to two per cent. of the principal of the total amount of bonds issued hereunder and then outstanding.

In case the Trustee shall not purchase or cause to be purchased the property sold at any such sale, and shall not join in a plan of reorganization as aforesaid in respect of such bonds or stock, the Trustee shall receive any portion of the proceeds of the sale accruing on the securities by it held hereunder, and such moneys shall be added by the Trustee to the CASH FUND under Section 3 of Article Eight hereof and be treated in all respects as part thereof.

SEC. 6. The assignment or pledge hereunder of any shares of Companies whose stock pledged may be consolidated with or property transferred to Railway Co. stock of any company or companies now or hereafter held by the Trustee hereunder, shall not prevent the consolidation or merger of any one or more of said companies with, or the sale, conveyance or transfer of the property of any such company to, the Railway Company; but, anything in this indenture contained to the contrary notwithstanding, such consolidation, merger or sale may be made under any laws to which such companies may then be subject: Provided, however, that such consolidation, merger or sale shall be made only upon such terms as shall be approved either by the Trustee, or by the holders of a majority in interest of the bonds secured by this indenture. In the event of the consolidation or merger of any one or more of the said companies with, or the sale of its property to, the Railway Company, this indenture immediately shall become and be a lien upon the property of the company so consolidated or merged

with, or so sold to, the Railway Company, with the same force and effect as if expressly conveyed by this indenture, and the holders of the bonds hereby secured shall always have as full and complete a lien upon such property as that herein created by the pledge of the stock and bonds of such constituent companies to the Trustee hereunder.

Consolidation of companies whose stock pledged.

The assignment or pledge hereunder of any shares of stock of any company or companies shall not prevent the consolidation or merger of any such companies with each other; nor shall it prevent the sale of the property of any such company (except in the cases prohibited in Section 8 of Article Two hereof), to any other company of whose capital stock the greater part shall be held by the Trustee hereunder: Provided, however, that any such consolidation, merger or sale shall be made only upon such terms as shall be approved either by the Trustee or by the holders of a majority in interest of the bonds secured by this indenture; and that the portion of the capital stock of any such consolidated, merging or purchasing company (but never less than a majority thereof), issued for and in lieu of any stock previously pledged hereunder, shall always bear to the total capital stock a proportionate relation at least as high as that borne by such previously pledged stock to the total capital stock of such constituent companies. Such portion of such stock of such consolidated, merging or purchasing company and also any bonds or other securities issued by such consolidated, merging or purchasing company in exchange for any stock theretofore held by the Trustee shall be assigned to and deposited with the Trustee, and shall become and be subject to the lien of this indenture with the same force and effect as if expressly pledged by this indenture; and the holders of the bonds hereby secured shall always have and retain, in respect of such portion of such stock, bonds or other securities of such consolidated, merging, or purchasing company, a lien, as full and complete, as upon the stock and bonds of such constituent companies, by reason of the pledge thereof hereunder.

The Trustee may do any and all things proper to carry into effect the purposes of this Section, and in order to facilitate the consolidation or the merger in whole or in part of any Company, the Trustee, if necessary to such end, may transfer into the name of the Railway Company, under such restrictions as it may deem sufficient for the protection of the holders of the bonds secured hereby, the shares of any Company about to be so merged, but the certificates in the name of the Railway Company forthwith shall be delivered to and held by the Trustee hereunder, and simultaneously the Railway Company shall execute such instruments as the Trustee shall deem necessary in order to enable it to transfer such shares back into its own name if at any time it shall deem such a course expedient for the protection of the holders of the bonds hereby secured.

SEC. 7. The Trustee, at any time in its discretion, may, ^{Extension} and, if requested in writing by the Railway Company, ^{and renewal} shall, consent to the extension or renewal of any of ^{of pledged} bonds. the said several bonds pledged with or assigned to, or which hereafter shall be pledged with or assigned to the Trustee hereunder (other than bonds mentioned in Section 5 of Article Two hereof), and of the mortgages securing the same, and in case of the renewal of any of such bonds the Trustee may surrender the same to the company which issued them, or its successor, and in lieu thereof may receive renewal bonds bearing such interest and maturing at such time as the Trustee may deem reasonable; provided that such extended or renewal bonds shall be secured by a lien and charge upon the same property equal or superior to that of the bonds renewed or extended. The Trustee may receive the certificate of counsel of the Railway Company as conclusive evidence that such extended or renewed bonds are so secured. All bonds received in exchange for, or in renewal of, the said several bonds heretofore mentioned, pledged with,

or assigned to, or which hereafter may be pledged with, or assigned to, the Trustee, shall, by the Trustee, be held subject to the lien and to all the terms and provisions of this indenture, in the same manner and to the same extent as the bonds in exchange for which, or in renewal of which, they shall have been received.

Remedies of
Trustee and
of bond-
holders.

ARTICLE FOUR.

Detached
coupons—
lien subordi-
nated.

SECTION 1. Neither any coupon belonging to any bond hereby secured, nor any claim for interest on any registered bond which in any way, on or after maturity, shall have been transferred or pledged, separate and apart from the bond to which it relates, shall, unless accompanied by such bond, be entitled, in case of a default hereunder, to any benefit of, or from, this indenture, except after the prior payment in full of the principal of all bonds issued hereunder, and of all coupons and interest obligations not so transferred or pledged.

Power of
entry after
default.

SEC. 2. In case (1) default shall be made in the payment of any interest on any bond at any time issued under and secured by this indenture, or on any bond (except bonds held by the Trustee hereunder) secured by either of the aforesaid mortgages of the Northern Pacific Railroad Company dated May 1st, 1879, and January 1st, 1881, or by the mortgage of the Western Railroad of Minnesota dated May 1st, 1877, or by the mortgage of the St. Paul and Northern Pacific Railroad Company, dated June 1st, 1883, and any such default shall continue for a period of six months; or in case (2) default shall be made in the due and punctual payment of the principal of any bond secured hereby, or of any bond (except bonds held by the Trustee hereunder) secured by any of the aforesaid mortgages mentioned in this Section; or in case (3) default shall be made by the Railway Company in the payment of any tax, assess-

ment or other governmental charge lawfully imposed or levied upon any part of the property and premises hereby mortgaged, or the income and profits thereof, and such default shall continue for a period of six months after written notice thereof from the Trustee or from holders of five per cent. in amount of the bonds hereby secured ; or in case (4) the Railway Company shall make default in the due observance and performance of any other covenant or condition herein contained, and any such default shall continue for a period of six months after written notice thereof from the Trustee or from the holders of five per cent. in amount of the bonds hereby secured ; then, and in each and every such case of default (provided, however, in respect of any of the three cases so indicated, that such default shall have continued for six months as aforesaid), the Trustee personally, or by its agent or agents, attorney or attorneys, may enter into and upon all or any part of the railways, rolling stock, property and premises, lands, rights, interests and franchises hereby conveyed, or intended so to be, and each and every part thereof, and may exclude the Railway Company, its agents and servants, wholly therefrom, and having and holding the same may use, operate, manage and control said railways and other premises, regulate the tolls for the transportation of passengers and freight thereon, and conduct the business thereof, either personally or by its superintendents, managers, receivers, agents and servants or attorneys, to the best advantage of the holders of the bonds hereby secured in accordance with law and with any statute relating to said railways and other premises or any part thereof, or to the operation thereof ; and, upon every such entry, the Trustee, at the expense of the trust estate, from time to time, by purchase, repairs or construction, may maintain and restore, and insure or keep insured, the rolling stock, tools and machinery and other property, buildings, bridges and structures erected or provided for use in connection with said railways and other premises, and whereof it shall

become possessed, as aforesaid, in the same manner and to the same extent as is usual with railway companies, and likewise from time to time, at the expense of the trust estate, may make all necessary or proper repairs, renewals and replacements and useful alterations, additions, betterments and improvements thereto and thereon, as well in respect of the rolling stock as in respect of the railways and appurtenances and other subject matters as to it may seem judicious; and the Trustee in such case shall have the right to manage the mortgaged premises as aforesaid, and carry on the business, and exercise all rights and powers of the Railway Company, either in the name of the Railway Company, or otherwise, as the Trustee shall deem best; and it shall be entitled to collect and receive all tolls, freights, incomes, rents, issues and profits of the same and every part thereof, and also the income from stocks and bonds pledged hereunder, and after deducting the expenses of operating said railways, and other premises and of conducting the business thereof, and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the said premises and property, or any part thereof, including any interest paid on bonds prior in lien to those secured hereby, as well as just and reasonable compensation for its own services and for all agents, clerks, servants and other employees by it properly engaged and employed, it shall apply the moneys arising as aforesaid as follows :

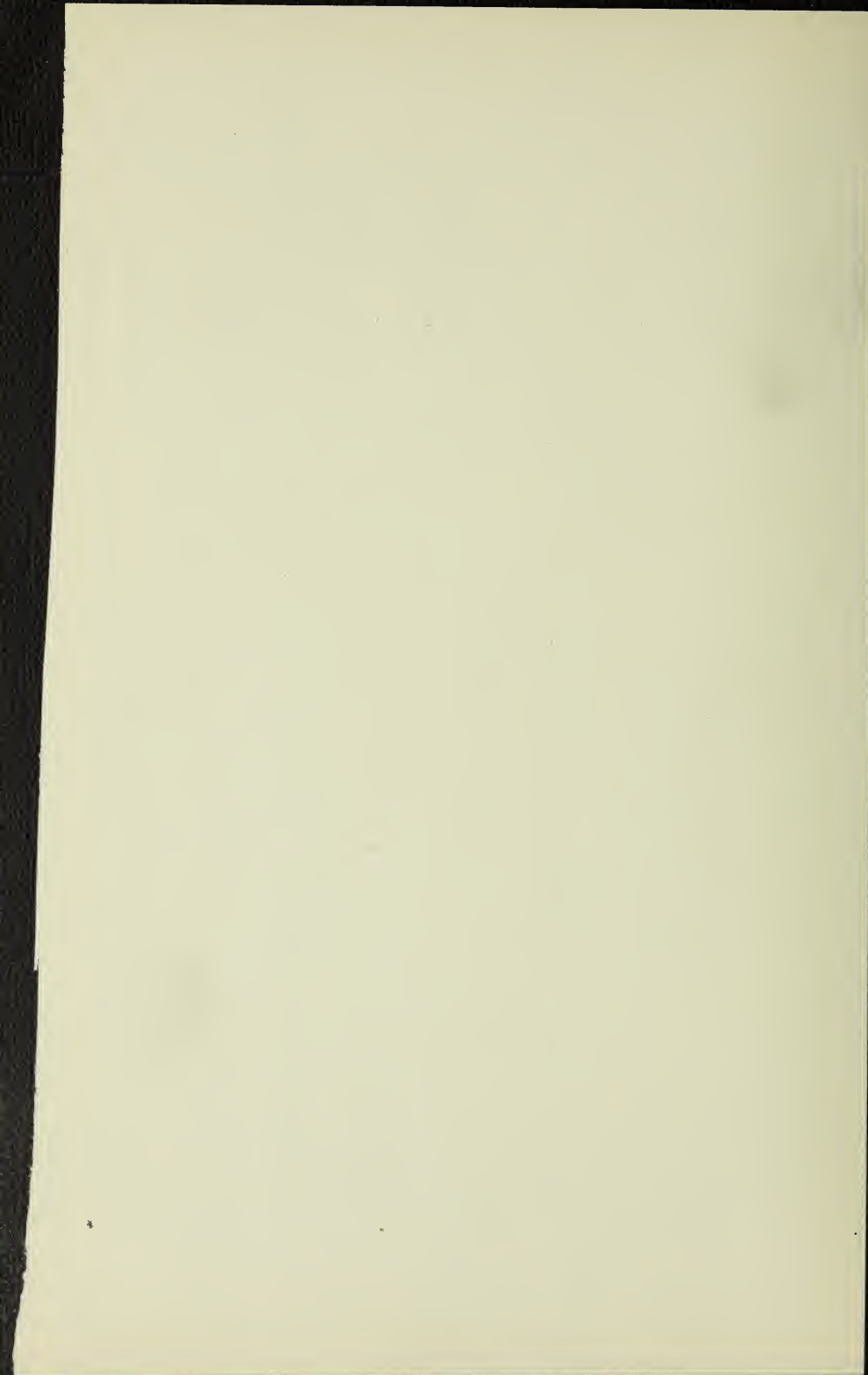
Application
of income by
Trustee in
possession.

In case the principal of the bonds hereby secured shall not have become due, to the payment of the interest remaining in default, in the order of the maturity of the installments of such interest, with interest thereon at the rate of four per cent. per annum; such payments to be made ratably to the persons or parties entitled thereto without discrimination or preference;

RAILROADS.

NORTHERN PACIFIC RAILROAD. Prior Lien Mortgage to Mercantile
Trust Co. 8vo. 102pp. GREENBERG. (N.Y. 1895.)

\$1.75



In case the principal of the bonds hereby secured, shall have become due by declaration or otherwise, first, to the payment of the accrued interest (with interest thereon at the rate of four per cent. per annum) in the order of the maturity of the installments thereof, and next to the payment of the principal of all bonds hereby secured ; in every instance such payments to be made ratably to the persons or parties entitled to such payment, without any discrimination or preference ;

These provisions, however, not being intended in any wise to modify the provisions of Section 1 of this Article.

In case, and during such continuance, of any such default ^{After default} in either of the first three cases specified in this section, ^{Trustee may} either with or without entry by the Trustee, and also in the fourth ^{collect in-} case, if the Trustee shall have entered or shall have elected to ^{terest and} enter as aforesaid, the Trustee shall have, exercise, and ^{dividends} enjoy the right to vote on all shares of stock pledged or ^{and vote on} agreed to be pledged hereunder, and, for the benefit of the holders of bonds hereby secured, the right to receive and collect all interest moneys and dividends maturing or payable upon all pledged bonds and stocks, and to apply as hereinbefore provided the net moneys received, and as holder of such shares of stock and of such bonds pledged or agreed to be pledged in this indenture, to perform any and all acts, and to make or execute any and all requests, requisitions or other instruments. In the event that a Receiver of the mortgaged railways shall have been appointed and shall be in possession thereof, the Trustee, from time to time, in its discretion, may turn over any part or all of the interest moneys and dividends so collected by it, to such Receiver, and may co-operate with such Receiver in managing and operating the entire system of the Railway Company in such manner as the Trustee shall deem for the best interests of the holders of the bonds hereby secured.

Principal of
bonds may
be declared
due.

SEC. 3. In case default shall be made by the Railway Company in the payment of any interest on any bond hereby secured, and such default shall continue for a period of six months, then and in every case of such continuing default, upon the written request of the holders of a majority in amount of the bonds hereby secured then outstanding, the Trustee, by notice in writing delivered to the Railway Company, shall declare the principal of all bonds hereby secured then outstanding to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this indenture or in said bonds contained to the contrary thereof in anywise notwithstanding. This provision is, however, subject to the condition, that if at any time after the principal of said bonds shall have been so declared due and payable, all arrears of interest upon all such bonds, with interest at the rate of four per cent. per annum on overdue installments of interest, shall either be paid by the Railway Company or be collected out of the mortgaged premises before any sale of the mortgaged premises shall have been made, then and in every such case the holders of a majority in amount of the bonds hereby secured then outstanding, by written notice to the Railway Company and to the Trustee, may waive such default and its consequences; but no such waiver shall extend to, or affect any subsequent default, or impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under this indenture by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned because of such waiver, or for any other lawful reason, or shall have been determined adversely to the Trustee, then and in every such case, the Railway Company shall be restored to its former position and rights hereunder in respect of the mortgaged premises and the shares of stock and bonds, and other property, herein pledged or agreed to be pledged; and,

upon the written request of the Railway Company, the Trustee shall do, make, execute, acknowledge and deliver such acts, deeds, instruments and assurances in the law as may be required to effectuate such purpose ; but, nevertheless, all rights, remedies and powers of the Trustee shall survive and continue as though no such proceedings had been taken.

SEC. 4. In case (1) default shall be made by the Railway Company in the payment of any interest on any bond secured by this indenture, or on any bond (other than bonds held by the Trustee hereunder) secured by either of said mortgages of the Northern Pacific Railroad Company, dated May 1st, 1879, and January 1st, 1881, or by said mortgage of the Western Railroad Company of Minnesota, dated May 1st, 1877, or by said mortgage of the St. Paul and Northern Pacific Railway Company, dated June 1st, 1883, and any such default shall continue for a period of six months ; or in case (2) default shall be made by the Railway Company in the due and punctual payment of the principal of any bond secured hereby, or of any bond (other than bonds held by the Trustee hereunder) secured by any of said four mortgages ; or in case (3) default shall be made by the Railway Company in the payment of any tax, assessment or other governmental charge lawfully imposed or levied upon any part of the mortgaged property or premises or the income and profits thereof, and such default shall continue for a period of six months after written notice thereof from the Trustee or from holders of five per cent. in amount of the bonds hereby secured ; or in case (4) the Railway Company shall make default in the due observance and performance of any other covenant, or condition herein contained, and any such default shall continue for a period of six months after written notice thereof from the Trustee or from the holders of five per cent. in amount of the bonds hereby secured and then outstanding ; then, and in each and every such case of default (provided, however, in respect of any of the three cases so indicated, that such default shall have continued

Power to sell
or to fore-
close by
judicial
proceedings.

—in discretion of
Trustee.

for six months as aforesaid), the Trustee, with or without entry, personally or by attorney, in its discretion (*a*) may sell to the highest and best bidder, all and singular the mortgaged property and premises, bonds and stocks, rights, franchises and interests, lands and appurtenances, and other real and personal property of every kind, and all right, title and interest, claim and demand therein, and right of redemption thereof, in one lot and as an entirety, unless a sale in parcels shall be required under the provisions of Section 6 of this Article, in which case such sale may be made in parcels as in said Section provided; which sale or sales shall be made at public auction at such place in the City of Superior, in the State of Wisconsin, or at such other place, and at such time and upon such terms, as the Trustee may fix and briefly specify in the notice of sale to be given as herein provided; or (*b*) may proceed to protect and enforce the rights of bondholders under this indenture, by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the foreclosure of this indenture, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee, being advised by counsel learned in the law, shall deem most effectual to protect and to enforce any of its rights or duties hereunder.

—or upon request of
holders of
25 % of
bonds.

Upon the written request of the holders of twenty-five per cent. in amount of the bonds hereby secured, in case of any such continuing default, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided, to take all needful steps for the protection and enforcement of its rights and the rights of the bondholders secured hereby, and to exercise the powers of entry and sale herein conferred, or both, or to take appropriate judicial proceedings by action, suit or otherwise, as the Trustee being advised by counsel learned in the law shall deem most expedient in the interest of the holders of the bonds hereby secured.

SEC. 5. Anything in this indenture contained to the contrary notwithstanding, the holders of seventy-five per cent. in amount of the bonds hereby secured and then outstanding, in case of any subsisting default, from time to time, shall have the right to direct and control the method and place of conducting any and all proceedings for any sale of the premises hereby conveyed and pledged, or agreed or intended so to be, or for the foreclosure of this indenture, or for the appointment of a Receiver, or of any other proceedings hereunder. Holders of 75% of bonds may direct proceedings of Trustee.

SEC. 6. In the event of any sale, whether made under the power of sale hereby granted and conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the property hereby mortgaged and pledged shall be sold in one parcel and as an entirety, including all the rights, title, estates, lands, rights to lands, railroads, equipment, franchises, leases, leasehold interests, contracts, stocks, bonds and other real and personal property of every name and nature, unless the holders of a majority in amount of the bonds hereby secured then outstanding, shall in writing request the Trustee to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels as may be specified in such request or petition, or unless such sale as an entirety is impracticable by reason of some statute or other cause; and this provision shall bind the parties hereto and each and every of the holders of the bonds and coupons hereby secured or intended so to be. Property to be sold as entirety except where otherwise directed or necessary.

SEC. 7. Notice of any such sale pursuant to any provision of this indenture, shall state the time and place, when and where the same is to be made, and shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each week for four successive weeks prior to such sale in a newspaper published in New York, N. Y.; a newspaper published in Superior, Wisconsin; a newspaper Notice of sale required.

published in St. Paul, Minnesota; a newspaper published in Bismarck, Dakota; a newspaper published in Helena, Montana; a newspaper published in Rathdrum, Idaho; a newspaper published in Tacoma, Washington; and a newspaper published in Portland, Oregon.

Conveyance
to purchaser
of mortgaged
property.

SEC. 8. Upon the completion of any sale or sales under this indenture, the Trustee shall make, execute and deliver to the accepted purchaser or purchasers a good and sufficient deed, or good and sufficient deeds, of conveyance, of the property and franchises sold. And the Trustee and its successors are hereby appointed the true and lawful attorney or attorneys, irrevocable, of the Railway Company, in its name and stead to make all necessary deeds and conveyances of property and all necessary transfers of shares of stock or bonds or other obligations thus sold, and for that purpose it and they may execute all necessary acts of assignment and transfer, and may substitute one or more persons with like power, the Railway Company hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof.

Any such sale or sales made under or by virtue of this indenture, whether under the power of sale hereby granted and conferred, or under or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Railway Company of, in and to the premises sold, and shall be a perpetual bar both at law and in equity against the Railway Company, its successors and assigns, and against any and all persons claiming or to claim the premises sold, or any part or parcel thereof, by, from, through or under the Railway Company, its successors and assigns, or any of them.

All except
pledged

The personal property and chattels conveyed, or intended to be conveyed by or pursuant to this indenture, other than

stocks, bonds and other securities, and property pledged or to be pledged with the Trustee, shall be real estate for all the purposes of this indenture, and shall be held and taken to be fixtures and appurtenances of the said railroads and part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

SEC. 9. The Trustee, from time to time, may adjourn any sale to be made by it under the provisions of this indenture, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales; and without further notice or publication, it may make such sale at the time and place to which the same shall be so adjourned.

SEC. 10. The receipt of the Trustee shall be a sufficient discharge to the purchaser or purchasers of the property sold as aforesaid, for the purchase money, and no such purchaser or purchasers, or his, their or its representatives, vendees, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money, upon or for, any trust or purpose of this indenture, or in any manner whatsoever be answerable for any loss, misapplication, or non-application, of any such purchase money, or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

SEC. 11. In case of any such sale, whether under the power of sale hereby granted, or pursuant to judicial proceedings, the whole of the principal sum of the bonds hereby secured, if not previously declared due, shall at once become due and payable anything in said bonds or in this indenture to the contrary notwithstanding.

SEC. 12. The proceeds or avails of any such sale, whether

Distribution
of proceeds
of sale.

under the power of sale hereby granted or pursuant to judicial proceedings, and the purchase money paid thereon, together with any sums which may be held by the Trustee under any of the provisions of this indenture, at the time of, or after, such sale, as part of the trust estate or the proceeds thereof, shall be applied as follows :

First. To the payment of the costs and expenses of such sale, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and of all expenses, liabilities and advances made and incurred by the Trustee in managing and maintaining the property hereby conveyed or so intended to be, and of all taxes, assessments or liens prior to the lien of these presents, except any taxes, assessments or other superior liens to which such sales shall have been made subject.

Second. To the payment of the whole amount then owing or unpaid upon the bonds hereby secured for principal and interest, with interest at the rate of four per cent. per annum on the overdue installments of interest, and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon the said bonds, then to the payment of such principal and interest, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably, to the aggregate of such principal and the accrued and unpaid interest; subject, however, to the provisions of Section 1 of this Article.

Third. To the payment of the surplus, if any, to the Railway Company, its successors or assigns, or to whomsoever may be lawfully entitled to receive the same.

Trustee may
recover
judgment for
benefit of
bondholders.

SEC. 13. The Railway Company covenants that in case (1) default shall be made in the payment of any interest on any bonds at any time outstanding and secured by this

indenture, or in case (2) default shall be made in the payment of the principal of any such bonds when the same shall become payable, whether at the maturity of said bonds or by declaration as authorized by this indenture, or by a sale of the mortgaged premises as hereinbefore provided, then, upon demand of the Trustee, the Railway Company will pay to the Trustee the whole amount of the interest or of the interest and principal due and payable on all the bonds hereby secured then outstanding, with interest at the rate of four per cent. per annum upon the over-due principal and installments of interest; and in case the Railway Company shall fail to pay the same, forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to recover judgment as aforesaid, either before, or after, or during the pendency of, any proceedings for the enforcement of the lien of this indenture upon the mortgaged and pledged premises, and the right of the Trustee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this indenture or the foreclosure of the lien thereof; and in case of a sale of the mortgaged premises and of the application of the proceeds of sale to the payment of the mortgage debt, the Trustee, in its own name and as Trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all of the bonds issued hereunder and then outstanding, for the benefit of the holders thereof, and shall be entitled to recover judgment for any portion of the mortgage debt remaining unpaid, with interest. No recovery of any such judgment by the Trustee and no levy of any execution upon any such judgment upon property subject to the lien of this indenture, or upon any other property, shall in any manner, or to any extent, affect the lien of the Trustee

upon the mortgaged premises or any part thereof, or any rights, powers or remedies of the Trustee hereunder, or any rights, powers or remedies of the holders of the bonds hereby secured, but such lien, rights, powers and remedies shall continue unimpaired as before.

Any moneys collected by the Trustee under this Section shall be distributed and paid over by it to the persons registered as holders of the registered bonds at the time of payment, and the persons presenting the coupon bonds and coupons for such payment, without any preference or priority of any kind, and ratably according to the amounts which shall have become due upon such bonds and coupons respectively.

Waiver of extension, appraisal and redemption laws.

SEC. 14. The Railway Company will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force in any locality where the mortgaged premises or pledged property, or any part of either, may or shall be situate, nor will it claim, take or insist on, any benefit or advantage from any law now or hereafter in force, providing for the valuation, or appraisal, of the mortgaged premises, or pledged property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree of any court of competent jurisdiction; nor after any such sale or sales will it claim or exercise any right under any statute enacted by the Congress of the United States, or by the Legislature of any State, to redeem the property so sold, or any part thereof; and it hereby expressly waives all benefit and advantage of any such law or laws; and it covenants that it will not hinder, delay or impede the execution of any power herein granted and delegated to the Trustee, but that it will suffer and permit the execution of every such power, as though no such law or laws had been made or enacted.

SEC. 15. Upon filing a bill in equity, or upon commencement of any other judicial proceedings to enforce any right of the Trustee or of the bondholders under this indenture, the Trustee shall be entitled to exercise the right of entry herein conferred, and also any and all other rights and powers herein and hereby conferred and provided to be exercised by the Trustee upon the occurrence and continuance of default as hereinbefore provided; and, in any case of any default entitling the Trustee to enter as provided in Section 2 of Article Four hereof, the Trustee as matter of right, shall be entitled to the appointment of a Receiver of the premises hereby mortgaged, and of the earnings, income, revenue, rents, issues or profits thereof, with such powers as the Court making such appointment shall confer; but notwithstanding the appointment of any Receiver, the Trustee shall be entitled, as pledgee, to continue to retain possession and control of the stocks, bonds, cash and other property pledged or to be pledged with the Trustee hereunder.

SEC. 16. The Railway Company at any time hereafter before full payment of the bonds secured hereby, and whenever it shall deem expedient for the better security of such bonds, although there be then no default entitling the Trustee to enter into possession, may, with the consent of the Trustee, surrender and deliver to the Trustee full possession of the whole or any part of the property, premises and interests hereby conveyed, or intended so to be, for any period fixed or indefinite. Upon such surrender and delivery to the Trustee, with its consent, the Trustee shall enter into and upon the premises so surrendered and delivered, and shall take and receive possession thereof, for such period, fixed or indefinite, as aforesaid, without prejudice, however, to its right at any time subsequently, when entitled thereto by any provision hereof, to insist upon and to

Appoint-
ment of Re-
ceiver by
consent.

maintain such possession, though beyond the expiration of any prescribed period. Upon any such voluntary surrender and delivery of said property and premises, or of any part thereof, the Trustee, from the time of its entry, shall work, maintain, use, manage, control and employ the same in accordance with the provisions of this Indenture, and shall receive and apply the income and revenues thereof as provided in Section 2 of this Article. Upon application of the Trustee, and with consent of the Railway Company if there be then no subsisting default hereunder, and without such consent if there shall then be a subsisting default entitling the Trustee to enter as provided in Section 2 of this Article hereof, a Receiver may be appointed to take possession of, and to operate, maintain and manage the whole or any part of said property wheresoever the same may be situated, with all the rights, powers and duties by this Section conferred upon the Trustee, and the Railway Company shall transfer and deliver to such Receiver all such property in its possession wheresoever the same may be situated; provided, however, that notwithstanding the appointment of any such Receiver, the Trustee, as pledgee, shall be entitled to retain possession and control of the stocks, bonds, cash and other property pledged with the Trustee hereunder.

No suit by
bondholders.

SEC. 17. No holder of any bond or coupon hereby secured shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of this indenture or for the execution of any trust thereof, or for the appointment of a Receiver, or for any other remedy hereunder, unless such holder shall previously have given to the Trustee written notice of such default and of the continuance thereof as hereinbefore provided, nor unless, also, the holders of twenty-five per cent. in amount of the bonds hereby secured and then outstanding shall have

made written request of the Trustee, and shall have afforded to it reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, nor unless, also, they shall have offered to the Trustee adequate security and indemnity against the cost, expenses and liabilities to be incurred therein or thereby ; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this indenture and to any action, or cause of action, for foreclosure or for the appointment of a Receiver, or for any other remedy hereunder ; it being understood and intended that no one or more holders of bonds and coupons shall have any right in any manner whatever to affect, disturb or prejudice the lien of this indenture by his or their action, or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all holders of such outstanding bonds and coupons.

SEC. 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee, or upon or to the holders of bonds hereby secured, is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Remedies cumulative.

SEC. 19. In case of any sale hereunder, any and all purchasers in making settlement or payment, shall be entitled to turn in any bonds and any matured and unpaid interest obligations hereby secured, estimating the value of such bonds and coupons for that purpose at the sum payable out of the net proceeds of such sale Right of purchaser to pay purchase price in bonds.

to the holder or holders of such bonds and coupons as his or their ratable share of such net proceeds, after allowing for the proportion of the total payment required to be made in cash for the cost and expenses of the sale or otherwise; and if such share of net proceeds shall be less than the amount then due upon such bonds and coupons, such purchaser or purchasers may make such settlement by receipting on the bonds the amount to be credited thereupon; and at any such sale any bondholders may bid for and purchase such property, and, upon compliance with the terms of sale, may hold, retain, and dispose of, such property without further accountability therefor.

Delay or omission to act not to operate as waiver.

SEC. 20. No delay or omission of the Trustee, or of any holder of bonds hereby secured, to exercise any right or power arising from any default continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein.

ARTICLE FIVE.

Authentication of instruments executed by bondholders.

Any request or other instrument required by this indenture to be signed and executed by bondholders may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such bondholders in person or by agent appointed in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent, and of the holding by any person of coupon bonds transferable by delivery, shall be sufficient for any purpose of this indenture, if made in the following manner:

The fact and date of the execution by any person of any such request, or other instrument, or writing, may be proved by the certificate of any notary public, or other officer authorized

to take acknowledgments of deeds to be recorded in New York, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution.

The amount of coupon bonds transferable by delivery, held by any person executing any such request or other instrument as the holder of bonds, and the amounts and issue numbers of the bonds held by such person, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank, bankers or other depository (wherever situated), whose certificate shall be deemed by the Trustee to be satisfactory, showing that such person had on deposit with such depository the bonds described in such certificate at the date therein mentioned. The ownership of registered coupon bonds or of registered bonds without coupons shall be proved by the registers of such bonds as provided in Section 4 of Article Two hereof.

Such proof shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument.

ARTICLE SIX.

Upon the written request of the Railway Company, Release by approved by resolution of its Board of Directors or Ex-Trustee of
ecutive Committee, the Trustee, from time to time while the property
Railway Company is in possession of the mortgaged premises, (other than
land grant)
but subject to the conditions and limitations in this Section of Railway
upon request
of Railway
Co.
prescribed, and not otherwise, shall release from the lien and
operation of this indenture any part of the mortgaged premises
(excepting the land grant now or formerly of the Northern
Pacific Railroad Company); *provided* (1), that no part of the
lines of track or of the right of way required in the operation
of the mortgaged railways shall be released unless the Railway

Company shall have ceased to use the same in the operation of its lines of railway, and no part of such railway shall be released if thereby the continuity of the lines of railway of the Railway Company shall be broken; and (2) that no part of the mortgaged premises appurtenant or incidental to the maintenance or operation of any part of the lines of railway subject to the lien of this indenture shall be released hereunder, unless at the time of such release the same shall no longer be requisite for any purpose for which it shall have been acquired or used, and shall no longer be necessary or expedient to be retained in connection with such lines of railway, or in the business of the Railway Company.

No such release shall be made unless the Railway Company shall have sold, or shall have contracted to exchange for other property, or to sell, the property so to be released; and, unless some other disposition thereof be required by some prior mortgage, the proceeds of any and all such sales, and all moneys received as compensation for any property subject to this indenture taken by exercise of the power of eminent domain, either shall be added to the CASH FUND under Section 3 of Article Eight hereof, or shall be set apart and applied, with the approval of the Trustee, to the purchase of other property, real or personal, which shall be conveyed in trust by the Railway Company to the Trustee, subject to all the trusts hereby declared, or in betterments of or improvements upon any part of the mortgaged premises. Any new property acquired by the Railway to take the place of any property released hereunder, *ipso facto*, shall become and be subject to the lien of this indenture, as fully as if specifically mortgaged hereby, but, if requested by the Trustee, the Railway Company will convey the same to the Trustee by appropriate deeds upon the trusts and for the purposes of this indenture.

The Railway Company, from time to time, while in possession of the mortgaged premises, shall also have full power, in its discretion, to dispose of any portion of the machinery,

equipments and implements, at any time held or acquired for the use of any lines of railway, which may have become unfit for such use, replacing the same by new machinery, equipment or implements, which shall become subject to the operation of this indenture.

In no event shall any purchaser or purchasers of any property sold or disposed of under any provision of this Article of this indenture be required to see to the application of the purchase money.

In case the mortgaged premises shall be in the possession of a Receiver lawfully appointed, the powers in and by this Section conferred upon the Railway Company may be exercised by such Receiver with the approval of the Trustee; and if the Trustee shall be in possession of the mortgaged premises under any provision of this indenture, then all the powers by this Section conferred upon the Railway Company may be exercised by the Trustee in its discretion.

A certificate signed by (1) the president, or a vice-president, and (2) the chief engineer, of the Railway Company may be received by the Trustee as conclusive evidence of any of the facts mentioned in this Section and shall be full warrant to the Trustee for its action on the faith thereof; but the Trustee, in its discretion, may require such further and additional evidence as to it may seem reasonable.

ARTICLE SEVEN.

In case at any time it shall become necessary, or in the judgment of the Trustee shall be for the interest of the holders of bonds hereby secured, or for the benefit of the mortgaged property, that the Railway Company shall make changes or alterations in, or substitutions of, any leases, trackage rights or contracts by which the Railway Company shall have secured

Changes in
leases, track-
age rights,
etc.

access to any point or points, the Railway Company, with the written consent of the Trustee, may make any such changes, alterations or substitutions, and may make, or cause to be made, executed and delivered, all such instruments in writing as may be proper and necessary to carry out and perfect any and all changes, alterations, or substitutions, authorized in this section.

At the same time, provision shall be made by instruments in writing satisfactory to the Trustee, so that such modified, altered or substituted leases, contracts or trackage rights forthwith shall become bound by, and be subject to, the terms of this indenture in the same manner, as the prior leases, contracts and trackage rights.

Sale of lands
granted by
Congress.

ARTICLE EIGHT.

SECTION 1. The Railway Company, at all times, shall be at liberty to contract for the sale of any parcel or parcels of the said lands granted by Congress, as aforesaid, to the Northern Pacific Railroad Company (whether or not heretofore patented) and conveyed by, or subject to the lien of, these presents, at such prices, and upon such terms of payment as shall not, within twenty days after the Railway Company shall have given notice thereof in writing to the Trustee, be disapproved by the Trustee as unreasonable and improper; and such sale or sales may be for cash or on credit, or partly for cash and partly on credit; and similarly the Railway Company may make any compromises or settlements with purchasers in respect of lands now or hereafter sold. Upon the sale or sales of any of said lands, and upon receipt of the proceeds of such sale or sales, the Trustee, by deed or deeds executed by it, or its authorized attorney, shall release the lands so sold from the lien created hereby, so that the purchaser or purchasers

thereof shall take and hold the same free from any encumbrance existing by reason of these presents. If any such sale or sales be made on credit, in whole or in part, there shall be made with the purchaser or purchasers a duplicate agreement in writing for the conveyance of the lands so sold to such purchaser or purchasers, his or their heirs or assigns, when full payment therefor shall have been made, as in such agreement in writing stipulated; and the Trustee shall receive the duplicate originals of all such agreements executed on the part of the purchaser or purchasers, and by itself, or by the Land Commissioner of the Railway Company, shall hold the same. The Trustee shall receive all moneys paid upon such purchase or purchases, subject only to deductions for expenses as hereinafter provided, and shall hold all moneys so received for the purposes, and upon the trusts, herein provided, in respect to the proceeds of the sales of lands; and upon full payment of the purchase money, or upon compromise or settlement therefor as aforesaid, the Trustee, in manner aforesaid, shall release the lands so sold and paid for, from the lien created and existing by reason of these presents; or, if, for any reason, it shall be expedient to accept from the purchaser a bond and mortgage, for the amount of the purchase money left unpaid, the Trustee, in manner aforesaid, may release the lands so sold from the lien and incumbrance of these presents, upon receiving the cash portion of the purchase money, and the personal bond of the purchaser for the remainder, conditioned in double the amount of the unpaid portion of the purchase price for the payment of the same, in installments or otherwise, within a period not exceeding ten years from the date of such purchase, with interest thereon, payable semi-annually, together with a purchase money mortgage on said land to secure the payment of such bond, and with the approval of the Trustee the Railway Company may make any compromise or settlement with any obligor upon any such bond.

Full right of
disposition
reserved
until satis-
faction of
Missouri Di-
vision and
General First
Mortgage.

Provided, however, that until the said two mortgages of the Northern Pacific Railroad Company—namely, the Missouri Division mortgage, dated May 1, 1879, and the General First Mortgage, dated January 1, 1881—shall have been fully satisfied, or until the moneys required for the payment of all the bonds thereby secured, shall have been deposited for the redemption thereof by means and operation of their respective sinking funds, or otherwise, the said lands granted by Congress and hereby conveyed, subject to the said mortgages respectively, may and shall be sold and disposed of, conveyed and released, and the proceeds of their sales applied, according to the provisions, terms and conditions of the said mortgages and solely for the purposes therein mentioned, in the same manner and with the same effect as if this indenture had never been made, and entirely and absolutely free and clear of any lien or incumbrance created hereby; and no conveyance by the Trustee or other instrument of release from this indenture shall be required for that purpose.

Trustee may
act by land
agent.

For the purpose of granting and releasing from the lien of these presents, such of said lands and premises as shall thereafter be sold in conformity with this Article, the Trustee may act, and it is hereby authorized and empowered to act, by agent or attorney appointed with the approval of the Railway Company; and all instruments executed and acts done by the agent or attorney of the Trustee, duly appointed for that purpose, in respect of the conveyance or release of lands which shall be sold in conformity with this Article, shall be as valid and effectual to all intents and purposes, if the same be within the scope of the authority of such agent or attorney, as if the same were executed by the Trustee itself; and every such appointment or power of attorney may be revoked by the Trustee at its pleasure and shall be revoked upon the written request of the Railway Company, and the Trustee may remove at pleasure any agent or attorney by it appointed, but no such revocation shall affect any act

done by such agent or attorney, prior to such revocation, pursuant to the power to him granted.

The Trustee is, and shall be, authorized to allow Expenses of land department. reasonable compensation to any agents or attorneys appointed by it, with the approval of the Railway Company as aforesaid, and to such agents, clerks and assistants, as it may deem necessary to employ, and to such agents, clerks and assistants as it may be necessary or proper for the said Railway Company to employ, in regard to the management, settlement and sale of said lands, and the preparation of contracts therefor, and conveyances thereof; and in each and every month the Trustee shall allow to be deducted out of the proceeds of the sales of said lands, an amount sufficient to defray such expenses (together with all arrears for like expenses incurred by the Railway Company since September 1st, 1896, and not reimbursed to it), if such expenses be reasonable and proper, and in just proportion to the benefit derived by this trust from sales of the said lands. The Trustee shall not be responsible for any error of judgment in allowing any such deduction; and neither the holders of the bonds hereby secured, nor the Trustee, shall, in any manner whatever, become, or be, liable or responsible for, or in respect of, any such expenses, or any other expenses attending the execution of the trust hereby created.

All moneys arising from the sale of the said lands hereby conveyed, in whatsoever manner such sale shall be made, subject only to deduction for expenses, as aforesaid, shall be received by the Trustee, and the surplus thereof remaining after deducting the expenses of the execution of this trust in respect thereof, and of the management, settlement and sale of said lands, and after repayment to the Railway Company of its outlays for taxes, assessments, advertising charges, betterments, and other proper expenses incurred by it in connection with said lands hereby conveyed, or to promote the sale thereof, shall Application of net proceeds of sale of lands.

be used and applied as provided in Sections 2 and 3 of this Article, and are herein designated by the term "net moneys."

In no event shall any purchaser or purchasers of any property sold or disposed of under any provision of this Article be required to see to the application of the purchase money.

Part of net
proceeds of
land sales
applicable to
redemption
of bonds.

SEC. 2. During each calendar year, or within three months after the expiration thereof, there shall be added to the "net moneys" received in such calendar year, under Section 1 of this Article, (1) the proceeds received by the Trustee in that year, from the sale of bonds set apart and sold for that purpose, as provided in subdivision (c) of Section 3 of Article One hereof, and (2) also the surplus of moneys in such year received by the Trustee as provided in Subdivision Second of Section 4 of this Article, upon the redemption of bonds of the Northern Pacific Railroad Company, held by the Trustee hereunder; and out of one-half of such combined fund received in such calendar year, an amount up to, but not exceeding, in the aggregate \$500,000, shall be applied to the purchase of bonds hereby secured at not over 110 per cent. of their par value, such purchase to be made without unnecessary delay, in such manner as shall be deemed best by the Railway Company and the Trustee, which immediately thereupon shall cancel all bonds so purchased; and such purchases shall be made whenever \$50,000 are available therefor.

If in any calendar year, or within three months after the expiration of such year, the Trustee shall not be able upon the terms above prescribed to purchase bonds hereby secured to an amount sufficient to exhaust the portion of such combined fund for such year applicable to such purchase (the portion so applicable not to exceed \$500,000 as aforesaid) then and in every such case, such unapplied balance of such portion of such combined fund shall be applied by the Trustee, in such manner as the Railway Company and the Trustee may deem best, in the

purchase at not over par and cancellation of General Lien Three Per Cent. Railway and Land Grant Gold bonds which the Railway Company purposes to issue under a mortgage or deed of trust, of even date herewith, but in all respects subordinate to the lien of this indenture.

The Trustee shall purchase with funds held for purchases under this section any bonds hereby secured held by the Railway Company in its treasury, if the Railway Company shall offer to sell the same to the Trustee at as low prices as other bondholders.

To the extent that in the opinion of the Trustee neither bonds hereby secured nor such General Lien Bonds can be bought on the terms herein prescribed, such bonds hereby secured may be purchased in the discretion of the Trustee and with the approval of the Railway Company at higher prices than those above fixed, or such unapplied balance shall be invested in securities in which Savings Banks at such time shall be authorized under the laws of New York to invest their funds, such securities to be held by the Trustee as a part of the trust estate hereunder; and the Trustee is hereby authorized from time to time in its discretion and with the consent of the Railway Company to dispose of any such securities purchased by the Trustee, and to reinvest the proceeds of such sale in similar manner, or to apply the same to the purchase and cancellation of Prior Lien Bonds or General Lien Bonds as aforesaid.

SEC. 3. In each calendar year, one-half of the combined fund—and part as mentioned in Section 2 of this Article, received by the Trustee in ^{a CASH FUND} for improvements and new acquisitions. that year and such portion of the other one-half as may be in excess of \$500,000, and also, in the cases hereinbefore indicated, any moneys received by the Trustee on account of any bonds pledged with the Trustee hereunder, other than bonds of the Northern Pacific Railroad Company, and any moneys received by the Trustee as the proceeds of any shares of stock or claims held by the Trustee hereunder upon the liquidation or dissolution of the company which issued such stock (but not any interest on

bonds, or dividends on stocks, or principal or interest of claims or indebtedness which the Railway Company shall be entitled to receive under any provision of this indenture), and also the net proceeds of sales of bonds as provided in the last paragraph of Subdivision (*b*) of Section 3 of Article One hereof, and in the last sentence of the second paragraph of Subdivision (*c*) of Section 3 of Article One hereof, shall be set apart by the Trustee, and thereafter shall be held by the Trustee separate from all other funds under this indenture as a CASH FUND to be paid over to the Railway Company, from time to time, and to be used for any purposes for which Prior Lien bonds reserved under Section 4 of Article One hereof, or the proceeds of such bonds, may be used, including the retirement or acquisition of liens, charges and indebtedness for which bonds hereby secured shall have been set apart as provided in Section 4 of Article One hereof, or to reimburse the Railway Company for expenditures made for any of the said purposes, but only subject to the following limitations and conditions :

Conditions
of use of
CASH FUND.

The cash so set apart under this section shall by the Trustee be paid to the Railway Company, or upon its order, as follows, viz. :

—\$500,000
may be used
after 1897.

(1) Upon January 1, 1898, or upon any day thereafter, upon resolution or resolutions of the Board of Directors of the Railway Company, such sum as shall be called for by such resolutions, but not exceeding \$500,000, shall be so paid over out of any such CASH FUND at the time of such call in the possession of the Trustee.

—after first
\$500,000 (or
less) verified
certificates
required.

(2) After such first payment there shall be paid over to the Railway Company out of such CASH FUND from time to time such sums, not exceeding \$500,000 in any one payment, as from time to time shall be on hand and shall be specified in similar resolutions; but in every instance, before paying over any sum under this Section (except the first payment hereunder), the Trustee shall require the Railway Company to furnish, in addi-

tion to such resolution of the Board, the verified certificate or certificates of some person or persons stating as of his or their own knowledge :

(a) that all such cash paid over under this Section since the last previous verified certificate has been used for the purposes hereinbefore authorized in this Section, or for some one or more of them, or to reimburse the Railway Company as above provided, and specifically indicating every such acquisition or construction of any railroad, track, structure, betterment, rolling stock or other property, and every such acquisition of the bonds or stock of any company owning any railroad or other property (which bonds or stock shall be acquired only when a majority of the total capital stock of such company shall be thereby obtained unless previously thereto such majority shall have been acquired and pledged hereunder) and also stating in detail the amount of cash expended for each and every such purpose, and whether such acquisition was by or in the name of the Railway Company, or by or for account of any other company as herein authorized ; and also that no acquisition, construction or expenditure stated in such certificate was stated in any previous certificate :

(b) that the price paid in cash for such construction or acquisition was not in excess of the fair value of the work done or property acquired ;

(c) that no bonds have been certified and delivered by the Trustee under Section 4 of Article One hereof, or from any other source under this indenture, on account of, or to reimburse the Railway Company for, any expenditure in such certificate mentioned as having been made out of the CASH FUND reserved under this Section or for which reimbursement is claimed out of such CASH FUND.

(d) In case of the acquisition or construction of any

new property, such certificate shall also state whether the property acquired is subject to any mortgage debt or lien or charge other than (1) any of the prior mortgages hereinbefore mentioned subject to which this indenture is made ; (2) mortgage bonds, or other liens or charges held by the Trustee hereunder, or in respect of which bonds shall have been reserved under Section 4 of Article One hereof, and (3) any undetermined liens or charges incidental to construction ; and in case of the acquisition of any shares of the capital stock, bonds or other indebtedness of any other company, such verified certificate shall state whether the property of such company is known or believed to be subject to any lien or charge or whether such company is known or believed to have any indebtedness, except ordinary operating accounts and except indebtedness to the Railway Company and liens, charges and indebtedness held by the Trustee hereunder, or in respect of which bonds shall have been reserved under Section 4 of Article One hereof, such verified certificate in each instance specifying the amount of any such lien, charge or indebtedness.

Any such verified certificate under this Section may state any other facts pertaining to the right to pay over cash under this Section.

—restrictions where new property acquired subject to liens or shares of a company indebted.

(3) The Railway Company shall not by use of the CASH FUND under this Section in any one calendar year acquire or construct new property, or acquire shares in any other company, if the amount of the mortgage or other liens and charges, prior to this indenture, upon such new property acquired or constructed in that year, and any and all indebtedness of such other company or companies whose stock shall be acquired in such year shall, in the aggregate, exceed \$500,000—except, however, said prior mortgages subject to which this indenture is made, and any mortgage bonds or other liens, charges or indebtedness, held by the Trustee hereunder, or in respect of

which bonds shall have been reserved under Section 4 of Article One hereof, and except also undetermined liens or charges incidental to construction and ordinary operating accounts, and indebtedness of any such other company to the Railway Company.

In case by use of such CASH FUND there shall be acquired or constructed any property subject to any such certified lien, charge or indebtedness, or in case by such use there shall be purchased any shares in a company certified to be indebted as aforesaid (not including, however, liens, charges and indebtedness of the classes above excepted), then and thereafter all moneys in the CASH FUND, from time to time, up to the par amount of such certified liens, charges and indebtedness, shall be applied only to the retirement or acquisition of such certified liens, charges and indebtedness, at not above the par amount thereof, or to creating a suitable reservation in money therefor, until the whole amount of such certified liens, charges and indebtedness, as certified to the Trustee, shall have been retired or acquired, or so provided for, out of such CASH FUND or out of bonds, or the proceeds of bonds certified and delivered as authorized by Section 4 of Article One hereof, or until the Railway Company shall have deposited with the Trustee an equal amount of bonds hereby secured, other than bonds held by the Railway Company for the purposes designated in Section 4 of Article One hereof, or set apart for some other purpose; and the bonds so deposited with the Trustee, thereafter, from time to time, shall be returned by the Trustee to the Railway Company in amounts equal at par to the amounts of such certified liens, charges or indebtedness retired or acquired.

Every such verified certificate, unless signed by (1) the —certificates President or one of the Vice-Presidents and (2) by the ^{to be accom-} Comptroller or Auditor or Treasurer of the Railway Com-^{panied by} statements. pany, shall be accompanied by the written statement of one of the officers first above designated and one of

—bonds,
shares and
conveyances
to be de-
livered with
opinion of
counsel.

the officers secondly above designated that they believe such certificate to be true, and that the cash received from the CASH FUND, therein accounted for, has been used and the expenditures therein certified have been made, only for purposes properly chargeable to capital account of the Railway Company, and that no part thereof has been used for ordinary maintenance of the lines of railway or of other property owned or in any way controlled by the Railway Company or for replacements or other purposes ordinarily treated by railroad companies as a part of their operating expenses. Together with such statements and verified certificates, there shall be delivered to the Trustee all bonds and the certificates for all shares of stock, so acquired, and such further instruments and conveyances as may be necessary to vest in the Trustee all new property so acquired, and, so far as may be, any and all other liens, charges or indebtedness acquired under provisions of this Section; and also the written opinion of counsel for the Railway Company to the effect that such instruments and conveyances are sufficient for that purpose, or that no additional instrument or conveyance is necessary. The certificates for all shares of stock so acquired, except such number of shares as may be required to qualify directors, shall be duly transferred into the name of the Trustee; and, if practicable, any bonds so acquired shall be transferred in like manner, or, if not susceptible of such transfer, shall be plainly endorsed as the property of the Trustee hereunder. Such resolutions, statements, verified certificates and opinion shall be deemed and taken as plenary authority to the said Trustee for its payment of such cash.

Disposition
of moneys
collected by
Trustee on
General
First Mort-
gage bonds

SEC. 4. Whenever any of the General First Mortgage bonds of the Northern Pacific Railroad Company now or hereafter held by the Trustee hereunder shall be called for redemption and become payable out of the sinking fund provided in the mortgage securing such bonds, the Trustee shall collect such

of said bonds as shall be held by it, and shall apply the sums so collected, as follows :

called for
sinking
fund.

FIRST. The Trustee shall forthwith return to the Railway Company such portion of the sums so collected as shall have been paid out of moneys in the said sinking fund, not derived from the sale of lands covered thereby.

SECOND. Any surplus remaining after reimbursing the Railway Company as aforesaid, shall be regarded as surplus moneys arising from the sale of lands covered by this indenture, and shall be added to and treated as part of the *net moneys* mentioned in this Article.

The Railway Company from time to time shall furnish the Trustee certificates signed by the President or a Vice-President and by the Comptroller or the Auditor of the Railway Company, specifying (a) the amounts of money applied after the date of this indenture to the redemption and payment of any of said bonds of the Northern Pacific Railroad Company whether held by the public or by the Trustee ; (b) the portion of the moneys so applied which shall have been derived from the sale of lands covered by said mortgage securing such bonds, and paid into the sinking fund under said mortgage and applied to the redemption of such bonds ; (c) the portion of the moneys so applied which shall have been furnished by the Railway Company from funds other than those accruing from sale of lands ; and (d) any other facts which the Trustee may require for the purpose of carrying out the provisions of this section. Such certificates may be received by the Trustee as conclusive evidence of any of such facts therein set forth, but the Trustee in its discretion may make such further inquiries and require such further evidence as it may deem reasonable ; and for the purposes of this section moneys derived from land sales and received by the trustee under said General First

Railway Co.
shall furnish
certificates
for protection
of
Trustee.

Mortgage and also all other moneys received by said trustee shall respectively be deemed applicable ratably to the redemption of all bonds called for redemption out of such moneys, whether such called bonds be held by the Trustee or not.

ARTICLE NINE.

Provisions
for protec-
tion of
Trustee.

SEC. 1. The Trustee shall not be answerable for the default or misconduct of any agent or attorney appointed by it in pursuance hereof, if such agent or attorney shall have been selected with reasonable care; or for anything whatever, in connection with this trust, except wilful misconduct or gross negligence. The Trustee shall not be personally liable for any debts contracted by it or for damages to persons or property carried or injured, or for salaries or non-fulfillment of contracts, during any period wherein the Trustee shall manage the trust property or premises upon entry or voluntary surrender as aforesaid. The Trustee shall not be under any obligation to take any action towards the execution or enforcement of the trust hereby created, which, in its opinion, shall be likely to involve it in expense or liability, unless one or more of the holders of the bonds hereby secured shall, as often as required by the Trustee, furnish it reasonable indemnity against such expense or liability; nor shall the Trustee be required to take notice of any default hereunder unless notified in writing of such default by the holders of at least five per cent. of the bonds hereby secured then outstanding, or to take any action in respect of any default unless requested in writing to take action in respect thereof by the holders of not less than twenty-five per cent. of the bonds hereby secured then outstanding, and tendered reasonable indemnity as aforesaid, anything herein contained to the contrary notwithstanding; but neither any such notice or request, nor this provision therefor, shall affect any discretion herein given to the Trustee to

determine whether or not it shall take action in respect of such default, or to take action without such request. The Trustee shall not be responsible for the recording of this indenture or for the filing of the same as a chattel mortgage.

The Trustee shall be entitled to reasonable compensation for all services rendered by it in the execution of the trusts hereby created.

SEC. 2. The Trustee, or any Trustee hereafter appointed, may resign and be discharged of the trusts created by this indenture by giving notice thereof to the Railway Company and to the bondholders, by publication, at least twice a week, for four successive weeks, in one newspaper at that time published in New York, N. Y.; one newspaper published in London, England, and one newspaper published in Berlin, Germany, and by due execution of the conveyance herein required.

Resignation
and removal
of Trustees.

The Trustee may be removed at any time by an instrument in writing under the hands of three-quarters in amount of the holders of the bonds secured hereby and then outstanding.

SEC. 3. In case at any time the said Trustee, or any trustee hereafter appointed, shall resign or be removed or otherwise become incapable of acting, a successor, or successors, may be appointed by the holders of a majority in amount of the bonds hereby secured and then outstanding, by an instrument or concurrent instruments signed by such bondholders or their attorneys in fact duly authorized; provided, nevertheless, and it is hereby agreed and declared that, in case at any time there shall be a vacancy in the office of trustee hereunder, the Railway Company, by an instrument executed by order of its board of directors, may appoint a trustee to fill such vacancy until a new trustee shall be appointed by the bondholders or as hereinafter authorized. The Railway Company shall thereupon publish notice of such appointment once a week for six successive weeks in a newspaper published in New York, N. Y.;

Appoint-
ment of new
Trustee.

a newspaper published in London, England ; and a newspaper published in Berlin, Germany ; and any new trustee so appointed by the Railway Company shall immediately and without further act be superseded by a trustee appointed in the manner above provided by the bondholders prior to the expiration of ninety days after such publication of notice. In case no such appointment shall be made by the bondholders prior to the expiration of such ninety days, a new trustee, to supersede the trustee appointed by the Railway Company, may nevertheless be appointed by any judge of the United States Circuit Court for the Eighth Circuit or by any court of competent jurisdiction in the premises upon the application of a one-quarter in amount of the bondholders. Every such trustee appointed in place of The Mercantile Trust Company, or its successor in the trust, shall always be a trust company in good standing, doing business in the City of New York, and having a capital and surplus aggregating at least \$2,000,000, if there be such a trust company willing and able to accept the trust upon reasonable or customary terms.

Any new trustee appointed hereunder shall execute, acknowledge and deliver to the trustee last in office and also to the Railway Company an instrument accepting such appointment hereunder, and thereupon such new trustee shall become vested with all the estates, properties, rights, powers and trusts of its or his predecessor in the trust hereunder with like effect as if originally named as trustee herein without any further act, deed or conveyance ; but the trustee ceasing to act shall, nevertheless, on the written request of the new trustee, execute and deliver an instrument transferring to such new trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the trustee so resigning or removed, and shall duly assign, transfer and deliver any stocks, bonds or other property and moneys held by such trustee to the new trustee so appointed in its or his place.

Should any deed, conveyance or instrument in writing, from

the Railway Company be required by any new trustee, for more fully and certainly vesting in and confirming to such new trustee such estates, rights, powers and trusts, any and all such deeds, conveyances and instruments in writing shall, on request, be made, executed, acknowledged and delivered by the Railway Company.

SEC. 4. If at any time or times, in order to conform to any Appointment of additional Trustee. law of any State in which the Railway Company now holds or at any time hereafter shall hold any property, the Railway Company shall so request, the Trustee shall unite with the Railway Company in the execution, delivery and performance of all instruments and agreements necessary or proper to constitute an additional trustee or trustees to be vested jointly with the trustee originally named herein or its successor, with any and all estates, rights, powers and duties originally vested in the trustee hereunder; provided, however, (1) that the bonds secured hereby shall be certified and delivered, and all powers conferred upon the Trustee under Article I. hereof shall be exercised, only by The Mercantile Trust Company, party of the first part, or a trust company appointed and acting as its successor in the trust hereunder; (2) that the custody of all the stocks, bonds and other property and cash held by the Trustee under this indenture, and all rights, powers and duties with respect to the administration, management and disposition thereof, including the rights, powers and duties vested in the trustee under Articles Three and Eight of this indenture, shall not vest in any such additional trustee, but shall remain vested solely in The Mercantile Trust Company or any trust company which may have been appointed and be acting as its successor in the trust hereunder, and (3) that no powers shall be exercised hereunder by such additional trustee, except jointly with, or with the consent of, The Mercantile Trust Company, or any trust company which may have been appointed and be acting as its successor in the trust.

It is further understood and agreed that, notwithstanding the appointment of such additional trustee, so far as the same legally can be done, each and every power vested in the Trustee shall be vested in and exercised by The Mercantile Trust Company and any trust company which may have been appointed and be acting as its successor in the trust hereby created, without the joint action of such additional trustee, and that any notice, request or other writing by or in behalf of the bondholders delivered solely to the said Trust Company, or its successor in the trust, shall be deemed delivered to any and all the trustees hereunder as effectually as if delivered to each of them, and that any additional trustee hereunder, by accepting the trust shall, so far as may be, delegate to The Mercantile Trust Company and its successor in the trust full authority and power to do in the joint names of the trustees all acts and instruments required to be done or executed by the trustees jointly.

ARTICLE TEN.

Bondholders
to have no
recourse
against
stockholders,
directors or
officers.

No recourse under any obligation, covenant or agreement of this indenture, or of any bond or coupon hereby secured, shall be had against any incorporator, stockholder, officer or director of the Railway Company, or of any successor corporation, either directly or through the Railway Company, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise; it being expressly agreed and understood that this mortgage and the obligations hereby secured are solely corporate obligations and that no personal liability whatever shall attach to, or be incurred by the incorporators, stockholders, officers or directors of the Railway Company, or of any successor corporation or any or either of them, under or by reason of any or either of the obligations, covenants or agreements in this indenture, or in any of the bonds or coupons hereby

secured, expressed and contained or implied therefrom, and that any and all personal liability of every name and nature, either at common law or in equity, or by statute, of every such incorporator, stockholder, officer or director, is hereby expressly waived as a condition of, and consideration for, the execution and issue of this mortgage and such bonds and coupons.

ARTICLE ELEVEN.

Right of possession in
Railway Co.
until default.

SECTION 1. Until some default shall have been made in the due and punctual payment of the interest, or of the principal, of the bonds hereby secured, or of some part of such interest or principal, or in the due and punctual performance and observance of some covenant or condition hereof obligatory upon the Railway Company, and, until such default shall have continued beyond the period of grace, if any, herein provided in respect thereof, or until the Railway Company voluntarily shall have surrendered possession to the Trustee as herein permitted, the Railway Company, its successors and assigns, shall be suffered and permitted to retain actual possession of all the premises hereby mortgaged (other than bonds, certificates of stock, cash and other property pledged or to be pledged hereunder with the Trustee) and the same and every part thereof, with the rights and franchises appertaining thereto, and the tolls, income, rents, issues and profits thereof to manage, operate, collect, receive, use and enjoy in any manner not inconsistent with the provisions hereof.

SEC. 2. If, when the bonds hereby secured shall have become due and payable, the Railway Company shall well and truly pay, or cause to be paid, the whole amount of the principal moneys and interest due upon all of the bonds and coupons for interest thereon hereby secured, then outstanding, or shall provide for such payment by depositing with the

Mortgage to be satisfied upon payment of bonds.

Trustee hereunder for the payment of such bonds and coupons the entire amount due thereon for principal and interest, and shall also pay, or cause to be paid, all other sums payable hereunder by the Railway Company, and shall well and truly perform all the things herein required to be performed by it, according to the true intent and meaning of this indenture, then and in that case all property, rights and interest hereby conveyed or pledged shall revert to the Railway Company, and the estate, right, title and interest of the Trustee shall thereupon cease, determine and become void, and the Trustee in such case, on demand of the Railway Company, and at its cost and expense, shall enter satisfaction of this indenture upon the records; otherwise, the same shall be, continue and remain in full force and virtue.

ARTICLE TWELVE.

Covenants to
bind succes-
sors and
assigns.

SEC. 1. All the covenants, stipulations, promises and agreements in this indenture contained, by or in behalf of the Railway Company, shall bind its successors and assigns, whether so expressed or not.

Power of
Railway Co.
to consoli-
date and sell
its property.

SEC. 2. Nothing contained in this indenture, or in any bond hereby secured, shall prevent any lawful consolidation or merger of the Railway Company with any other corporation, or any conveyance and transfer, subject to the continuing lien of this indenture and to all the provisions thereof, of all the mortgaged and pledged premises as an entirety to a railroad corporation at that time existing under and by virtue of the laws of the United States or of any State thereof, and lawfully entitled to acquire the same; provided, however, that such consolidation, merger or sale shall not impair the lien and security of this indenture, or any of the rights or powers of

the Trustee, or of the bondholders hereunder, and that, upon any such consolidation, merger or sale, the due and punctual payment of the principal and interest of all of said bonds according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this indenture, shall be assumed by the corporation formed by such consolidation or merger or purchasing as aforesaid.

SEC. 3. In case the Railway Company, pursuant to Section 2 of this Article, shall be consolidated or merged with any other corporation, or shall sell, convey and transfer, subject to this indenture, all the mortgaged and pledged premises as an entirety as aforesaid, the successor corporation formed by such consolidation or into which the Railway Company shall have been merged, or which shall have purchased and received a conveyance and transfer as aforesaid, upon executing and causing to be recorded an indenture with the Trustee, satisfactory to the Trustee, whereby such successor corporation shall assume the due and punctual payment of the principal and interest of said bonds and the performance of all the covenants and conditions of this indenture, shall succeed to, and be substituted for, the Railway Company, party of the first part hereto, with the same effect as if it had been named herein as such party of the first part, and such successor corporation thereupon may cause to be signed and may issue, either in its own name or in the name of the Northern Pacific Railway Company, any or all of such bonds which shall not theretofore have been signed by the Northern Pacific Railway Company and delivered to the Trustee, and, upon the order of said successor corporation and subject to all the terms, conditions and restrictions herein prescribed, the Trustee shall certify and deliver any of such bonds which shall have been previously signed and delivered by the officers of the Railway Company to the Trustee for certification, and any of such bonds which such successor corporation shall thereafter cause to

be signed and delivered to the Trustee for that purpose. All the bonds so issued shall in all respects have the same legal rank and security as the bonds theretofore or thereafter issued in accordance with the terms of this indenture, as though all of said bonds had been issued at the date of the execution hereof.

Powers
vested in
successor
company.

SEC. 4. For every purpose of this indenture, including the execution, issue and use of any and all bonds hereby secured, the terms "Railway Company" and "Northern Pacific Railway Company" include and mean not only the party of the first part hereto, but also any such successor corporation, formed under the laws of the United States or of any State or States thereof. Every such successor railroad corporation shall possess and from time to time may exercise each and every right and power hereunder of the Northern Pacific Railway Company, in its name or otherwise.

Officers of
successor
company
may act.

SEC. 5. Any act or proceeding by any term of this indenture or of any bond or resolution herein recited, required or provided to be done or performed by any board or officer of the Railway Company, shall and may, in event of any change in its existence, be done and performed with like force and effect by the like board or officer of any railroad corporation that shall at the time be lawful sole successor of the Railway Company.

Powers un-
der this
Article may
be surren-
dered.

SEC. 6. Nevertheless, before the exercise of the powers conferred by this article, the Railway Company, by instrument in writing executed by authority of two-thirds of its board of directors and delivered to the Trustee, may surrender any of the powers reserved to the Railway Company or to such successor corporation under this Article and thereupon such power so surrendered shall terminate.

ARTICLE THIRTEEN.

The Railway Company may deem and treat the bearer of ^{Railway Co.} any coupon bond hereby secured, which shall not at the time ^{may treat} be registered as hereinbefore authorized, and the bearer of any ^{bearers of} coupon ^{bonds and} coupon for interest on any such bond, whether such bond shall ^{holders of} be registered or not, as the absolute owner of such bond or ^{registered} coupon, as the case may be, for the purpose of receiving pay- ^{bonds as} ment thereof and for all other purposes, and the Railway ^{owners.} Company shall not be affected by any notice to the contrary.

ARTICLE FOURTEEN.

The Mercantile Trust Company, Trustee, party ^{Acceptance} hereto of the second ^{of trusts by} part, hereby accepts the trusts in this ^{Trustee.} indenture declared and provided, and agrees to perform the same upon the terms and conditions hereinbefore set forth.

The words "the Trustee," or "said Trustee," ^{Definition of} or any other equivalent term, as used in this ^{certain} indenture (except when otherwise clearly indicated), shall ^{terms.} be held and construed to mean the Trustee, or Trustees, for the time being, whether original or successor, and the words "Trustee," "bond," "bondholder" and "holder" shall include the plural as well as the singular number, and the term "majority" shall signify "majority in amount," whether or not so expressed.

In order to facilitate the record of this indenture, the same ^{Execution of} may be simultaneously executed in several counterparts, each ^{mortgage in} of which so executed shall be deemed to be an original; and ^{counter-} such counterparts shall together constitute but one and the ^{parts.} same instrument.

In witness whereof, the Northern Pacific Railway Company, the party hereto of the first part, has caused this indent-

ure to be signed and acknowledged or proved by its President, and its corporate seal to be hereunto affixed, and the same to be attested by the signature of its Secretary ; and The Mercantile Trust Company, the party of the second part, has caused its corporate seal to be hereunto affixed and attested by its Secretary, and these presents to be signed and acknowledged or proved by its President the day and year first above written.

NORTHERN PACIFIC RAILWAY COMPANY,

By

[SEAL.]

EDWIN W. WINTER,

President.

Attest:

GEO. H. EARL,

Assistant Secretary.

"

THE MERCANTILE TRUST COMPANY,

By

[SEAL.]

LOUIS FITZGERALD,

President.

Attest:

E. R. ADEE,

Secretary.

Signed, sealed and delivered }
on behalf of the Northern }
Pacific Railway Company }
in the presence of }

P. A. NOLAN.

WILLIAM H. CLARKSON.

Signed, sealed and delivered }
on behalf of The Mercan- }
tile Trust Company in the }
presence of }

P. A. NOLAN.

WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } ss. :

I, WILLIAM H. CLARKSON, a Commissioner of Deeds in the State of New York, thereto appointed by the Governor of each of the following States—to wit, the States of Wisconsin, Minnesota, North Dakota, Montana, Idaho, Washington and Oregon—for said States respectively, and a Notary Public for the City and County of New York, thereto duly appointed by the Governor of the State of New York, do hereby certify that Edwin W. Winter and George H. Earl, whose names are signed to the foregoing mortgage deed hereto attached, bearing date on the 10th day of November, 1896, as President and Assistant Secretary, respectively, of Northern Pacific Railway Company, the corporation described in and which executed the above instrument as mortgagor, with whom I am personally acquainted, and who are to me personally known, and known to me to be the President and Assistant Secretary, respectively, of Northern Pacific Railway Company, the mortgagor therein named, and to be the individuals and identical persons of that name described in and who executed, and whose names are subscribed to, the within and foregoing instrument as President and Assistant Secretary, respectively, of Northern Pacific Railway Company, personally appeared before me, at my office in said County and Corporation aforesaid, and then and there, being informed of the contents of the said instrument, they did on this 10th day of November, 1896, acknowledge the due execution of the within and foregoing mortgage deed on the day the same bears date; and, further, did acknowledge said instrument to be the free act and deed of said corporation, and that they had freely and voluntarily executed, signed, sealed and delivered the said instrument as the free and voluntary act and deed of the Northern Pacific Railway Company as aforesaid, for the uses and purposes therein mentioned and contained; and the said Edwin W. Winter and George H. Earl, being by me duly sworn, did depose and say that they resided, the said Edwin W. Winter in the City of St. Paul, Minn., and the said George H. Earl in the City of Jersey City, N. J.; that they are respectively the President and Assistant Secretary of the Northern Pacific Railway Company, the corporation described in and which executed the above instrument; that they knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order.

In witness whereof, I have hereunto set my hand and seals of office as Commissioner of Deeds in and for the several States of Wisconsin, Minnesota, North Dakota, Montana, Idaho, Wash-

ington and Oregon, and also as Notary Public in and for the City and County of New York, in the State of New York, at my office in said City of New York, this 10th day of November, 1896.

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Wisconsin
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Minnesota
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of North
Dakota in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Montana
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Idaho in
New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Washington
in New York, residing in New
York City.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Oregon
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Notary Public for the City and County
of New York, in the State of New
York.*

STATE OF NEW YORK, }
City and County of New York, } ss.:

I, HENRY D. PURROY, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, do hereby certify, That William H. Clarkson, whose name is subscribed to the Certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a Notary Public in and for the City and County of New York, dwelling in the said City, commissioned and sworn, and duly authorized to take the same. And, further, that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court and County the 10th day of Nov., 1896.

[SEAL.]

HENRY D. PURROY,
Clerk.

STATE OF NEW YORK, }
 City and County of New York, } ss. :

I, WILLIAM H. CLARKSON, a Commissioner of Deeds in the State of New York, thereto appointed by the Governor of each of the following States—to wit, the States of Wisconsin, Minnesota, North Dakota, Montana, Idaho, Washington and Oregon—for said States respectively, and a Notary Public for the City and County of New York, thereto duly appointed by the Governor of the State of New York, do hereby certify that Louis Fitzgerald and Ernest R. Adee, whose names are signed to the foregoing mortgage or deed of trust hereto attached, bearing date on the 10th day of November, 1896, as President and Secretary, respectively, of The Mercantile Trust Company, the corporation described in and which executed the above instrument as mortgagee, with whom I am personally acquainted, and who are to me personally known, and known to me to be the President and Secretary, respectively, of The Mercantile Trust Company, the mortgagee therein named, and to be the individuals and identical persons of that name described in and who executed, and whose names are subscribed to, the within and foregoing instrument as President and Secretary, respectively, of The Mercantile Trust Company, personally appeared before me at my office in said County and Corporation aforesaid, and then and there, being informed of the contents of the said instrument, they did, on this 10th day of November, 1896, acknowledge the due execution of the within and foregoing mortgage or deed of trust on the day the same bears date; and, further, did acknowledge said instrument to be the free act and deed of said corporation, and that they had freely and voluntarily executed, signed, sealed and delivered the said instrument as the free and voluntary act and deed of The Mercantile Trust Company, as aforesaid, for the uses and purposes therein mentioned and contained; and the said Louis Fitzgerald and Ernest R. Adee, being by me duly sworn, did depose and say that they resided, the said Louis Fitzgerald, in the City of New York, N. Y., and the said Ernest R. Adee, in the City of New York, N. Y.; that they are respectively the President and Secretary of The Mercantile Trust Company, the corporation described in and which executed the above instrument; that they knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order.

In witness whereof, I have hereunto set my hand and seals of office as Commissioner of Deeds in and for the several States of Wisconsin, Minnesota, North Dakota, Montana, Idaho, Washington and Oregon, and also as Notary Public in

and for the City and County of New York, in the State of New York, at my office in said City of New York, this 10th day of November, 1896.

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Wisconsin
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Minnesota
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of North
Dakota in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Montana
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Idaho
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Washing-
ton in New York, residing in New
York City.*

[SEAL.] WILLIAM H. CLARKSON,
*Commissioner for the State of Oregon
in New York.*

[SEAL.] WILLIAM H. CLARKSON,
*Notary Public for the City and County
of New York, in the State of
New York.*

STATE OF NEW YORK, }
City and County of New York, } ss. :

I, HENRY D. PURROY, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, do hereby certify, That William H. Clarkson, whose name is subscribed to the Certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a Notary Public in and for the City and County of New York, dwelling in the said City, commissioned and sworn, and duly authorized to take the same. And, further, that I am well acquainted with the handwriting of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said court and county, the 10th day of Nov., 1896.

[SEAL.] HENRY D. PURROY,
Clerk.



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